



# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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## Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

Wisconsin Compensation Rating Bureau  
20700 Swenson Drive Suite 100  
Waukesha WI 53186

dated July and October 2001, and served upon the company on September 16, 2002, has been adopted  
as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this December 19, 2003 day of December, 2003.

Jorge Gomez  
Commissioner of Insurance

**STATE OF WISCONSIN  
OFFICE OF THE COMMISSIONER OF INSURANCE**

**MARKET CONDUCT EXAMINATION**

**OF**

**WISCONSIN COMPENSATION RATING BUREAU and the  
WISCONSIN WORKER'S COMPENSATION INSURANCE POOL  
WAUWATOSA, WI**

**JULY AND OCTOBER 2001**

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# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

*Jim Doyle, Governor*  
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October 25, 2001

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Honorable Jorge Gomez  
Commissioner of Insurance  
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a market conduct examination was made in July and October 2001 of the:

Wisconsin Compensation Rating Bureau, and the  
Wisconsin Worker's Compensation Insurance Pool  
Wauwatosa, WI

and the following report is respectfully submitted.

## I. INTRODUCTION

Wisconsin enacted the first constitutionally valid American workman's compensation law as Chapter 50, Laws of 1911, effective September 1, 1911. In 1917, legislation was enacted which, in part, provided for the creation of a Compensation Board and provided that:

"Every company transacting the business of worker's compensation insurance in this state shall be a member of a bureau to be maintained in this state for the following purposes:

1. To separate the industries of this state that are subjects of worker's compensation insurance into proper classes for compensation insurance purposes; to make inspections of compensation risks and to apply thereto the schedule of merit rating system approved for use in this state; to establish charges and credits under such system and to make reports showing all facts affecting such risks on the subject of compensation insurance.
2. To assist the compensation insurance board and companies in approving rates, determining hazards, and other material facts in connection with compensation risks and to assist in promoting safety in the industries."

The bureau created by this legislation was the Wisconsin Compensation Rating & Inspection Bureau (Bureau). The first regular meeting of the Bureau was held on July 24, 1917. At this meeting, bylaws were duly adopted and the Bureau, a nonprofit, unincorporated association of insurers authorized to write worker's compensation insurance in Wisconsin, commenced operations. The Bureau functioned under this name until May 9, 1950, when the bylaws were amended to change the name to the Wisconsin Compensation Rating Bureau (Bureau).

From its inception in 1917 to 1933, the Bureau was under the jurisdiction of the Compensation Insurance Board which consisted of the Commissioner of Insurance, one member of the Industrial Commission chosen by that commission, and a third person appointed by the Governor. In 1933, the law was changed and the Compensation Insurance Board was discontinued. Since 1933, the Bureau has been under the jurisdiction of the Office of the Commissioner of Insurance (Commissioner).

The Bureau is licensed as a rate service organization in accordance with ss. 625.31, 625.32 and 626.09, Wis. Stats. It operates under the bylaws, as amended, which were established in 1917. The purposes of the Bureau are set forth in s. 626.09 (1), Wis. Stats, and are as follows:

- (a) To establish, maintain and administer rules, regulations, classifications, rates and rating plans to govern the transaction of insurance included in s. 626.03;
- (b) To cooperate with other rate service organizations and with insurers in the development of rules, rates and rating plans and insurance policies and forms;
- (c) To secure and analyze statistical and other data required to accomplish these purposes;
- (d) To inspect and classify risks;
- (e) To file with the commissioner on behalf of its members every manual of classifications, rules and rates, every rating plan and every modification of any of them proposed for use in this state;
- (f) To assist the commissioner and insurers in the promotion of safety in industry; and
- (g) To assist in any matter necessary for the accomplishment of these purposes.

Section 626.06, Wis. Stat., provides that every insurer authorized to write worker's compensation insurance in Wisconsin is a member of the Bureau. Each Bureau member must, through a duly authorized official, subscribe to and file with the Bureau a copy of the bylaws. Such acceptance of these bylaws is deemed an agreement to be a member of the Bureau.

Membership by group is not permitted. Each individual company in a group of insurers must be a member of the Bureau and pay all dues and assessments if it is licensed to write worker's compensation insurance in Wisconsin. Each individual member has one vote, and voting by proxy is not permitted.

Each member must pay an initial fee of \$500 on becoming a member of the Bureau and an annual fee of \$100. The balance of the expenses of the Bureau are paid by assessment, with each member's share based on their proportion of the net direct worker's compensation insurance premium writings in Wisconsin.

In 1917, there were 33 companies transacting worker's compensation insurance in Wisconsin. As of December 31, 2000, the Bureau had 499 members.

## **II. PURPOSE AND SCOPE**

The examination was conducted to determine whether the practices and procedures of the Wisconsin Compensation Rating Bureau (Bureau) and the Wisconsin Worker's Compensation Insurance Pool (Pool) comply with the Wisconsin insurance statutes and rules. The examination included a market conduct and a financial component.

The market conduct portion of the examination focused on the period from January 1, 1999 through May 31, 2001. The examination of the Bureau included, but was not limited to, verification of compliance with the recommendations made in the prior examination report dated September 25, 1986, customer service and complaint handling, company operations, organization and management, electronic commerce activities and the residual market operations of the Pool.

The financial examination consisted of a review of all major phases of the Bureau's operations since the last examination, and included the following areas:

- Management and Control
- Corporate Records
- Fidelity Bonds and Other Insurance
- Employees' Welfare and Pension Plans
- Growth of Company
- Financial Statements
- Accounts and Records
- Data Processing

Emphasis was placed on the audit of those areas of the Bureau's operations accorded a high priority by the examiner-in-charge when planning the examination. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

### III. SUMMARY OF CONSUMER COMPLAINTS

The Office of the Commissioner of Insurance (Commissioner) defines a complaint as “a written communication received by the Commissioner that indicates dissatisfaction with an insurance company, agent or other licensee.” The Commissioner received 8 complaints against the Wisconsin Compensation Rating Bureau (Bureau) between January 1, 1999 and April 30, 2001.

The following table categorizes the complaints received against the Bureau by complaint reason:

<b>Reason Type<sup>1</sup></b>	<b>01/01/01 Thru 04/30/01</b>	<b>2000</b>	<b>1999</b>
Underwriting	4	1	1
Marketing & Sales	-	-	-
Claims	-	-	-
Policyholder Service	1	-	1
Other	-	-	-

Prior to July 1, 2001, the system used by the Commissioner to track consumer complaints did not record whether a worker's compensation insurance complaint against a specific insurer was related to a policy issued on behalf of the Wisconsin Worker's Compensation Insurance Pool (Pool). The examiners reviewed all of the worker's compensation insurance complaints filed against the insurance companies acting as servicing carriers for the Pool between January 1, 1999 and April 30, 2001. The review indicated that 42 of the 184 complaints involved a policy issued on behalf of the Pool. Based on the information contained in the complaint, it could not be determined whether the complaint involved a policy issued on behalf of the Pool for 128 of the complaints.

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<sup>1</sup> There may be more than one type of coverage and/or reason for each complaint.



The following table categorizes the complaints received by the Commissioner against the servicing carriers that involved a policy issued on behalf of the Pool by complaint reason:

<b>Reason Type<sup>2</sup></b>	<b>01/01/01 Thru 04/30/01</b>	<b>2000</b>	<b>1999</b>
Underwriting	1	7	17
Marketing & Sales	-	2	4
Claims	-	1	1
Policyholder Service	1	6	12
Other	-	1	2

<sup>2</sup> There may be more than one type of coverage and/or reason for each complaint.

#### **IV. PRIOR EXAMINATION RECOMMENDATIONS**

The prior examination of the Wisconsin Compensation Rating Bureau (Bureau) and the Wisconsin Worker's Compensation Insurance Pool (Pool) was conducted June 2, through July 24, 1986. The examination consisted of a review of the organizational structure, rules, minutes, bylaws, and internal operation of the Bureau, Pool and the Wisconsin Automobile Insurance Plan (Plan). The recommendations contained in the prior examination report related to the Plan are covered in a separate examination report. The recommendations contained in the previous examination report related to the Bureau and the Pool and the Bureau's and Pool's actions therein follow:

##### **Wisconsin Compensation Rating Bureau**

1. Documentation supporting the election of committee members be maintained and reported to the commissioner to assure compliance with s. 626.31 (1) (b), Wis. Stat.

Action: Compliance

2. The WCRB Rating Committee and its Actuarial Subcommittee review NCCI rate revision information with its relevant Wisconsin data pertaining to all rating matters. The review should include worker's compensation experience and data compiled by the Worker's Compensation Division of the Department of Industry, Labor and Human Relations.

Action: Compliance

3. Meeting notices, minutes and actions including the voting of the Governing and Rating Committees be recorded and submitted to the Commissioner of Insurance to assure full compliance with s. 626.31, Wis. Stat., in the operation and control of the WCRB. All actions pertaining to finances, operations and administration of the WCRB be reported in order to fully reveal all activities and technical problems in the operations of the WCRB. In addition, since the commissioner has the tie-breaking vote on any committee matter, no meeting or phone vote be held or taken without compliance with bylaws Article X.4 on notice and agenda of meetings and without the knowledge of the commissioner.

Action: Compliance

The examiners found that no agenda of matters to be considered was sent for the March 13, 2001, meeting of the Rating Committee. The March 13, 2001 Rating Committee Meeting was a teleconference and all committee members and representatives OCI were made aware of the meeting and invited to participate in the meeting via electronic mail messages and telephone calls.

4. All subcommittees be selected by the appropriate committee and in accordance with s. 626.31, Wis. Stat. Their representation should be from both classes of insurer members with at least one member from each class.

Action: Compliance

5. The WCRB determine the staff and amount of equipment that is necessary to perform inspections of risk for proper classifications of employees and to audit employer payrolls, in order to comply with s. 626.09, Wis. Stat.

Action: Non Compliance

The examiners found that the Bureau's Test Audit Program was suspended approximately 10 years ago at the direction of the Rating Committee so that the Bureau could concentrate on conducting inspections of employer operations.

1. **Recommendation:** It is again recommended that the Bureau determine the staff and amount of equipment that is necessary to perform inspections of risk for proper classifications of employees and to audit employer payrolls, in order to comply with s. 626.09, Wis. Stat.
6.
    - a. The WCRB revise the Notice to Carrier Procedures to require more timely compliance. Increase the amounts of fines levied and establish a time frame for reporting noncompliance to the Governing Committee and OCI.
    - b. All fines levied prior to June 1, 1986, as shown in Attachment IV be collected within 90 days after adoption of this report and, if uncollected, advise OCI of reason.
    - c. The WCRB be more assertive in collecting "Notice of Error" fines and that the Governing Committee consider additional fines for overdue cases or for continuous delays and indifferent concern for the notice of error from the WCRB.
    - d. The outstanding fines "average outstanding period" be reduced.

Action: Compliance

7. The WCRB determine the staff and equipment needed to perform its operations so as to prevent acute backlogs of work and timely service to the insurer members by its staff as provided in s. 626.09, Wis. Stat.

Action: Compliance

8. The WCRB provide adequate staff to avoid unnecessary amounts of overtime needed to keep the WCRB's operation at a current level.

Action: Compliance

9. The WCRB obtain an adequate number of CRT units to process the WCRB's workload at various workstations where employer and coverage status is being determined and processed.

Action: Compliance

10. Rate filings for worker's compensation business be made based upon a formula developed by the WCRB to report the experience of Wisconsin employers. To ensure the accuracy of the data used in ratemaking, conduct audits of NCCI collected data on a regular and schedule basis. In addition, all future filings include a complete explanation of the methods used in determining the rate change including a discussion of the underlying assumptions and reasonableness of the particular method applied in developing the rate revision as provided in s 626.13, Wis. Stat.

Action: Compliance

11. All date stamps be made legibly in order to determine cancellation and change effective dates.

Action: Compliance

12. The necessary equipment be installed to update the Bureaus accounting system to include a change to computerized cash receipts and disbursements and to establish a better general ledger as soon as reasonably practical.

Action: Compliance

#### **Wisconsin Worker's Compensation Insurance Pool**

13. Contracts be made with the WWCIP and WAIP servicing carriers so that all conditions are by agreement including a 60 or 90 day notice to terminate the agreement to act as a servicing carrier.

Action: Compliance

14.
  - a. The WWCIP be staffed and equipped to provide the handling of pool applications and changes within several days after their receipt.
  - b. Agents who repeatedly fail to follow pool rules or submit incomplete applications should be reported to the Commissioner of Insurance

Action: Compliance

## **V. MARKET CONDUCT EXAMINATION FINDINGS**

### **Organization and Management**

Section 626.31, of the Wisconsin Statutes, provides that the Wisconsin Compensation Rating Bureau (Bureau) shall make bylaws for its government, which, with amendments thereto, shall be filed with and approved by the Commissioner before they are effective. The Bureau operates under the bylaws approved on July 24, 1917 as amended on August 18, 1997, which have been filed with and approved by the Commissioner.

The bylaws of the Bureau provide that there shall be a Governing Committee consisting of eight Bureau members elected from the membership. The membership of this committee consists of an equal number of stock insurers and mutual insurers. The bylaws of the Bureau define stock insurers as stock corporations. Mutual insurers are defined as mutual corporations and reciprocal interinsurers.

Section 626.31 (1) (b), Wis. Stat. and the bylaws provide for a ten member Rating Committee consisting of eight Bureau members elected from the membership and two additional members representing noninsurer, employer interests who are appointed by and serve at the pleasure of the Governor.

Two members of each committee are elected to 4-year terms during the annual meeting held in May. The stock insurers and mutual insurers, respectively, acting separately, elect by majority ballot their respective members to these committees. Each committee member shall have one vote, with the Commissioner deciding the matter in the event of a tie. Not more than one insurer in a group under the same management or ownership shall serve on the Governing Committee or the Rating Committee at the same time.

### Governing Committee

The Governing Committee has complete charge and management of the affairs of the Bureau, except for the authority specifically granted to the Rating Committee in accordance with Article VIII of the bylaws. The Governing Committee shall make such rules and regulations, provide such facilities, and take such steps as from time to time may be necessary, for the operation of the Bureau and compliance with the laws of Wisconsin that govern the Bureau. In addition, the Governing Committee has control and supervision over the finances of the Bureau with the authority to determine and approve appropriations for expenses and make payments thereon and authority to approve and direct assessments and fees to be levied against members. It also has the power to appoint auxiliary standing and temporary committees to carry out the objectives of the Bureau.

The Governing Committee members, as of May 2001, and their market share rank based on their Wisconsin worker's compensation written premium volume in 2000 are as follows:

<b>Governing Committee Member</b>	<b>2000 Market Share Ranking</b>
Employers Insurance of Wausau, A Mutual Company	5
Fire & Casualty Insurance Company of CT	48
Fireman's Fund Insurance Company	36
General Casualty Company of Wisconsin	37
SECURA Insurance A Mutual Company	87
Sentry Insurance A Mutual Company	13
Society Insurance, A Mutual Company	10
Travelers Insurance Company	33

### Rating Committee

The Rating Committee has the authority to classify and rate all worker's compensation and employers' liability risks in Wisconsin, except employers' liability insurance on domestic servants and farm employees written in conjunction with other forms of insurance. The Rating Committee adopts rules and regulations regarding the writing of such risks and maintains a manual of rules, classifications, rates and rating plans.

Pursuant to s. 626.13, Wis. Stat., the Bureau shall file with the Commissioner on behalf of its members every manual of classifications, rules and rates, every rating plan and every modification of any of them proposed for use in Wisconsin. The Commissioner has final approval of rules, rates, and rating plans that govern the transaction of worker's compensation and employer's liability insurance.

The insurer members of the Rating Committee as of May 2001, and their market share rank based on their Wisconsin worker's compensation written premium volume in 2000 are as follows:

<b>Rating Committee Member</b>	<b>2000 Market Share Ranking</b>
Continental Casualty Company	69
Employers Insurance of Wausau, A Mutual Company	5
Employers Mutual Casualty Company	24
Fireman's Fund Insurance Company	36
Sentry Insurance, A Mutual Company	13
Society Insurance, A Mutual Company	10
Travelers Insurance Company	33
United Wisconsin Insurance Company	15

#### Subcommittees

The Governing and Rating Committees have established several subcommittees to assist in carrying out the objectives of the Bureau. A summary of the subcommittees, their purpose, and respective members as of May 2001 is as follows:

- I. *Actuarial*: The purpose of the Actuarial subcommittee is to review rate filing data and proposals from the rate service organization contracted to assemble rate filings and other actuarial projects and to make recommendations to the Rating Committee. This subcommittee reports to the Rating Committee and its members are:
  - Continental Casualty Company
  - Employers Insurance of Wausau A Mutual Company
  - Fire & Casualty Insurance Company of CT
  - Sentry Insurance A Mutual Company
  - Society Insurance A Mutual Company
  - Travelers Insurance Company
- II. *Bureau Operations and Administration*: The purpose of Bureau Operations and Administration subcommittee is to assist all Committees and Bureau management in operational matters such as work flow, special coverage forms, special rules or procedures to deal with unique problems, or any other specific assignments or projects. Depending on

the issue under consideration, this subcommittee reports to the Governing or Rating Committee and its members are:

- Employers Insurance of Wausau A Mutual Company
- Employers Mutual Casualty Company
- Fireman's Fund Insurance Company
- Travelers Insurance Company

III. *Finance*: The purpose of the Finance subcommittee is to oversee the budgeting process and to work with Bureau management to continually seek ways to improve efficiencies. This subcommittee reports to the Governing Committee and its members are:

- General Casualty Company of Wisconsin
- Sentry Insurance A Mutual Company
- Travelers Insurance Company

IV. *Human Resources*: The purpose of the Human Resources subcommittee is to assist Bureau management in issues involving Human Resources, including salary administration, performance evaluation processes and recruitment/retention activities. This subcommittee reports to the Governing Committee and its members are:

- Fire & Casualty Insurance Company of CT
- Fireman's Fund Insurance Company
- Society Insurance A Mutual Company

V. *Investments*: The purpose of the Investments subcommittee is to review and monitor the results of the investment managers for the Wisconsin Worker's Compensation Insurance Pool Fund portfolio. This subcommittee reports to the Governing Committee and its members are:

- Fire & Casualty Insurance Company of CT
- Hartford Underwriters Insurance Company
- Liberty Mutual Insurance Company
- Sentry Insurance A Mutual Company

VI. *Joint Finance*: The purpose of the Joint Finance subcommittee is to meet with representatives of the Governing Committee for the Wisconsin Automobile Insurance Plan to determine allocation of shared costs. This subcommittee reports to the Governing Committee and its members are:

- Fireman's Fund Insurance Company
- Society Insurance A Mutual Company

VII. *Operations*: The purpose of the Operations subcommittee is to aid Bureau management in any area involving the internal operations of the Bureau, including systems issues, workflow processes and technology. This subcommittee reports to the Governing Committee and its members are:

- Employers Insurance of Wausau
- SECURA Insurance A Mutual Company



In addition to the subcommittees listed above, the Governing Committee has appointed an auxiliary standing committee to administer the Wisconsin Worker's Compensation Insurance Pool (Pool) under the supervision of the Governing Committee. The Wisconsin Worker's Compensation Insurance Pool Committee (Pool Committee) primarily exists to bring about a maximum degree of uniformity in the servicing of Pool business by allowing a regular meeting format to discuss operational problems and solutions.

The Pool Committee consists of the servicing carriers for the Pool, and one or more additional members added to meet the requirement that the Pool Committee be comprised of an equal number of stock and mutual insurers. The members of the Pool Committee as of May 2001, and their market share rank based on their Wisconsin worker's compensation written premium volume in 2000 are as follows:

<b>Wisconsin Worker's Compensation Insurance Pool Committee Member</b>	<b>2000 Market Share Ranking</b>
Employers Mutual Casualty Company	24
General Casualty Company of Wisconsin	37
Liberty Mutual Insurance Company	52
Middlesex Insurance Company	49
Society Insurance A Mutual Company	10
Travelers Insurance Company	33
Tri-State Insurance Company of MN	62
West Bend Mutual Insurance Company	2

All of the members of the Pool Committee are currently acting as a servicing carrier for the Pool with the exception of General Casualty Company of Wisconsin. General Casualty Company of Wisconsin is serving on the Pool Committee to meet the requirement that the Pool Committee be comprised of an equal number of stock and mutual insurers.

The examiners reviewed the Bureau Annual Reports for the last 3 years, the agendas and minutes for the Rating, Pool, and Governing Committees for the period under review and the bylaws. In addition, the examiners compared a list of Bureau members to all insurance companies licensed to transact business in Wisconsin. The following exceptions were noted.

The examiners noted that there is no written procedure or procedural manual for staff to follow related to the handling of membership applications and other tasks related to the management of Bureau membership.

Section 626.03, Wis. Stat., provides that every insurer writing worker's compensation insurance is a member of the Bureau. However, an insurance company may be a member of the Wisconsin Compensation Rating Bureau regardless of its licensing status in Wisconsin. This is due in part to the fact that the insurer must be a member of the Bureau before the Commissioner will grant the insurer the authority to write worker's compensation insurance. Once an insurer becomes a Bureau member the insurer is entered into the Bureau's computer system and policies from the insurer would be accepted irrespective of the company's authority to transact business in Wisconsin. The Bureau advised the examiners that it does not have any internal controls in place to ensure that a Bureau member obtains the authority to write worker's compensation insurance.

The examiners found 18 Bureau members that are authorized to do business in Wisconsin but do not have the authority to write worker's compensation insurance; 3 Bureau members where the member's license to transact business in Wisconsin was pending, and; 1 Bureau member that was not authorized to transact business in Wisconsin. In addition, the examiners found that the Bureau had 19 active policies in its system, which include Wisconsin in Item 3A of the policy, that were issued by one or more of the 18 Bureau members that do not have the authority to write worker's compensation insurance in Wisconsin.

- 2. Recommendation:** It is recommended that the Bureau develop and implement internal controls to ensure that all Bureau members are licensed and have the authority to write worker's compensation insurance before accepting policies from the members. It is further recommended that the Bureau refer instances of insurers writing worker's compensation insurance in Wisconsin without the proper authority to the Commissioner.

When the bylaws of the Bureau are amended, each member is required to, through a duly authorized official, subscribe to and file with the Bureau a copy of the revised bylaws. The

most recent amendment to the bylaws was effective August 18, 1997. The examiners requested to review a signed copy of the bylaws amended on August 18, 1997, for 25 members selected on a random basis from a list of all Bureau members. The Bureau could not locate a signed copy of the requested bylaws for 13 of the 25 members requested.

- 3. Recommendation:** It is recommended that the Bureau confirm that all members have returned a signed copy of the most recent bylaws to ensure that all members accept the obligations of membership in the Bureau as defined by the current version of the bylaws. It is further recommended that the Bureau develop and utilize a tracking system so the Bureau can easily identify when a member has not returned a signed copy of the bylaws when required and follow up with the member as needed.

The Bureau keeps its members and other interested parties informed of changes to the rules, regulations, classifications, rates and rating plans that govern worker's compensation insurance in Wisconsin and to the operations of the Bureau through its Circular Letter Service. In addition to announcing changes, the Bureau uses its Circular Letter service to notify members of upcoming meetings of the Rating, Pool and Governing Committees and to distribute the minutes of these meetings.

General Circular Letter number 412 dated May 5, 2000 issued to all Bureau members announced the release of Circular Letters electronically beginning July 1, 2000. It requested that each member provide the Bureau with an e-mail address to which the Bureau could send an electronic copy of the Circular Letters rather than a hard copy. General Circular Letter number 416 dated February 8, 2001 issued to all Bureau members announced a change in the electronic distribution of Circular Letters as members were experiencing difficulties receiving the Circular Letters as an attachment to an e-mail. In this General Circular Letter, the Bureau advised that as of March 1, 2001, hard copy distribution of Circular Letters would be discontinued unless the member requested to continue to receive hard copy distribution. In addition, the Circular Letter advised that as of March 1, 2001, notification of the release of new Circular Letters would be provided to members via e-mail and that the Circular Letters could be accessed via the Internet.

The examiners found that the Bureau has not compared the list of members who have provided an e-mail address and notified the Bureau that they have Internet access with its membership list. As such, the Bureau is not able to determine if all members are being sent notification of the release of Circular Letters and have a method to access the Circular Letters. Paragraph 4 of Article X, of the bylaws states that notice of meetings of the Bureau with an agenda of matters to be considered shall be sent to the members 10 days in advance of the meetings. In addition, Article XVI of the Bylaws provides that notice of proposed amendments or repeal of the bylaws shall be mailed to all members not less than 20 days prior to the meeting at which said amendment or repeal is to be considered.

- 4. Recommendation:** It is recommended that the Bureau reconcile the list of members that have provided an e-mail address and notified the Bureau that it has Internet access with its membership list. It is further recommended that the Bureau resume hard copy distribution of Circular Letters to those members who have not provided an e-mail address and/or do not have Internet access, in order to ensure compliance with paragraph 4 of Article X and Article XVI of the bylaws.

The examiners found that no agenda of matters to be considered was sent for the March 13, 2001, meeting of the Rating Committee. In addition, the examiners did not find evidence that the minimum notice period was waived by unanimous consent of all Rating Committee members. Article X.4 of the Bureau bylaws states that:

“Notice of meetings of the Bureau with an agenda of matters to be considered shall be sent to the members ten (10) days in advance of the meetings, and only such matters as are specified on the notice shall be considered except by unanimous vote of all Bureau members present.”

In addition, Article X.6 of the bylaws states that:

“Notice of all meetings of Committees, with an agenda of matters to be considered shall be given to all members of the Committee at least ten days in advance of the meetings, and only such matters as are specified in the agenda shall be considered except by the unanimous vote of all committee members present; provided, however, that the minimum notice period of ten (10) days may be waived by unanimous consent of all committee members.”

- 5. Recommendation:** It is recommended that the Bureau send a notice of all meetings with an agenda of matters to be considered to the members and Committee members at least 10 days in advance of the meetings, to ensure compliance with the Bureau's bylaws.

At the annual meeting of the Bureau every May, each committee of the Bureau elects its chairperson from the committee's membership. The chairperson alternates annually between stock and mutual committee members. The examiners found that since the addition of the employer representative members to the Rating Committee in 1991, an employer representative member has not served as chairperson. In addition, the examiners found that the current election process does not provide for the election of an employer representative as chairperson.

Paragraph 5 of Article VI, Organization of the bylaws provides that:

"Each committee shall annually elect its chairperson from its membership, who shall chair all its meetings and shall have an equal right of voting on all questions. The chairperson shall be alternated annually between stock and mutual committee members, and employer representatives shall also be proportionately included in the alternating procedures for the Rating Committee."

- 6. Recommendation:** To ensure compliance with paragraph 5 of Article VI, Organization of the bylaws, it is recommended that the election process for the chairperson of the Rating Committee be amended to allow an employer representative to be proportionately included in the alternating procedures for the election of a chairperson.

The examiners found that the Human Resource, Operations and Finance sub-committees of the Bureau each have unequal representation of stock and mutual insurers. Section 626.31 (1) (b), Wis. Stat., provides that both stock and mutual insurers shall be represented equally on all committees of the Bureau.

- 7. Recommendation:** It is recommended that the composition of stock and mutual members of the Human Resource, Operations and Finance sub-committees of the Bureau be amended to ensure compliance with s. 626.31 (1) (b), Wis. Stat.

As of May 31, 2001, there are seven Bureau members servicing the risks insured through the Pool. Four of these seven servicing carriers also serve on the Governing Committee or are affiliated with an insurer serving on the Governing Committee. The servicing carriers, on behalf of the Pool, issue policies in their own name, and provide claims, loss control, auditing and other services to the risks insured through the Pool. The servicing carriers are responsible for, among other things, collecting the premium due under the policies it has issued

on behalf of the Pool. The servicing carriers are not responsible for uncollectable premium amounts if, after due diligence, the premium cannot be collected. The servicing carriers have discretion for the handling of premiums due up to \$10,000. Uncollectable premium amounts between \$10,000 and \$25,000 may only be charged back to the Pool if approved by the Bureau. Uncollectable amounts in excess of \$25,000 may only be charged back to the Pool if approved by the Governing Committee.

The examiners found that when a premium charge off is brought before the Governing Committee, the servicing carrier and/or an insurer affiliated with the servicing carrier requesting the charge off serving on the Governing Committee does not abstain from voting and/or the abstention is not recorded in the meeting minutes.

- 8. Recommendation:** It is recommended that Governing Committee members abstain from voting on premium charge off's when the committee member and/or an affiliated insurer is the servicing carrier requesting the premium charge off. It is further recommended that the abstention be duly noted in the meeting minutes.

## **Electronic Commerce**

At the time of the examination the Bureau maintained a website that provided a brief history and general information about the worker's compensation system in Wisconsin, general Bureau contact information, answers to frequently asked questions, information on a select number of forms used by the Bureau and/or the Pool, portions of the past 3 Annual Reports of the Bureau, information on the committees of the Bureau and provided the user with the ability to search for classification codes and their respective rates. In addition, the Bureau website had a members only area which provided information on the historical performance of the classification codes used in Wisconsin and allowed the user to calculate an experience modification factor and the premium for a policy.

The Bureau advised the examiners that it is committed to developing its website by increasing the amount and quality of timely information available to customers. In the future, the Bureau plans to make available on its website, approved ACORD forms, Pool Depopulation

Reports, the ability to calculate a credit factor under the Wisconsin Contractors Premium Adjustment Program and the Wisconsin Worker's Compensation Insurance Pool Handbook. In addition, the Bureau continues to develop the members only area and plans to allow authorized individuals access to experience rating worksheets, statements of account, inspections reports and other confidential information.

The examiners reviewed the Bureau's website and the contractual agreement between the Bureau and the vendor selected to develop the website. The following exceptions were noted.

The examiners found that the agreement between the Bureau and the vendor selected to develop the Bureau's website does not contain a confidentiality clause requiring the vendor to protect confidential information contained in the Bureau's systems.

- 9. Recommendation:** It is recommended that the agreement between the Bureau and the vendor selected to develop the Bureau's website be amended to include a confidentiality clause that requires the vendor to take the appropriate steps to protect confidential information contained in the Bureau's systems.

### **Customer Service and Complaints**

The examiners reviewed the process used by the Bureau to handle complaints and appeals to the Bureau requested pursuant to s. 625.31 (3), Wis. Stat. The following exceptions were noted.

The Bureau does not have a formal definition of what constitutes a complaint, does not maintain a complaint log or other formal record of complaints and does not have written procedures for staff to follow in the handling of complaints. As complaints are received, they are reviewed and handled by the appropriate Bureau staff and, if needed, referred to the appropriate Bureau Committee. While the examiners did not find any unanswered complaints during their review, the lack of a complaint log and written procedures makes it difficult to track problems related to a particular servicing carrier, insurance agent, Bureau employee, or Bureau rule and/or procedure.

- 10. Recommendation:** It is recommended that the Bureau formally define what constitutes a complaint, develop and implement written procedures related to the handling of complaints and maintain a log of complaints received.

The examiners found that paragraph 6f of the appeal procedure for the Rating Committee and the Pool Committee provides that the Committee's rulings will be filed with the Commissioner for approval. The actual procedure followed is that rulings from a formal hearing are filed with the Commissioner for informational only purposes.

The examiners found that the Bureau does not have a specific procedure for handling appeal matters that may require the review of the Governing Committee. Depending on the nature of the request for review, the Governing Committee may be the appropriate entity to review matters brought before the Bureau pursuant to s. 626.31 (3) (a), Wis. Stat.

Section 626.31 (3) (a) 3, Wis. Stat., provides that:

"The following persons or their authorized representatives shall be heard by the bureau upon written request:

1. Any insurer or employer on any matter affecting the risk in connection with a survey under sub. (2) (a);
2. Any person aggrieved by the application of the bureau's rating system to the person;
3. Any member alleging discrimination as to services or charges of the bureau; and
4. Any municipality, as defined under s. 345.05 (1) (c), or any state department or agency."

Section 626.31 (3) (b) 1, Wis. Stat., states that the Bureau shall provide a specified procedure for review of the matters under s. 626.31 (3) (a), Wis. Stat.

- 11. Recommendation:** It is recommended that the appeal procedure for the Rating Committee and the Pool Committee be amended accordingly to reflect the actual procedure of filing Committee decisions with the Commissioner for information only.
- 12. Recommendation:** It is recommended that a specific procedure for the review of matters under s. 626.31 (3) (a), Wis. Stat., that would be under the jurisdiction of the Governing Committee be developed and implemented, in order to ensure compliance with s. 626.31 (3) (b) 1, Wis. Stat.



## **Company Operations**

The Bureau is organized into four areas of operation; Operations, Technical Services, Administrative Services and Information Technology.

The Operations area performs all activities associated with policy review, including but not limited to data entry, quality review, proof of coverage, processing all unit statistical reports and promulgation of all intrastate experience modifications. This area also works with Bureau members and data collection organizations on data reporting issues and assists in maintaining and enhancing the Bureau's computer system for internal data collection and ongoing operations.

The Technical Services area is responsible for inspections and audits, administration of the Wisconsin Worker's Compensation Insurance Pool (Pool) and the Wisconsin Contractor's Premium Adjustment Program, and handling employer ownership changes. In addition, this area serves as a technical resource for Bureau staff, members, insurance agents, and employers subject to the Worker's Compensation Act of Wisconsin.

The Administrative Services area is responsible for the finance, human resources, and all Notice to Carrier (NTC) functions of the Bureau. This area oversees the Bureau budget process, payroll, the handling of all financial reporting required for administration of the Pool, coordinating the training and development of all employees and working with members on issues related to late or inaccurate policy issuance and unit statistical reports.

The Information Technology area is responsible for management of Bureau hardware and software for all automated systems used by the Bureau, providing Bureau staff with support for the automated applications, including maintaining existing applications, developing new applications, identifying new automated applications and training.

## ***Policy Information***

The Bureau's responsibilities include, among other things, maintaining and providing proof of coverage for all Wisconsin employers subject to the Worker's Compensation Act. All

insurers writing worker's compensation policies in Wisconsin are required to file policy information with the Bureau. The policy information filed with the Bureau includes new and renewal policies, endorsements attached to policies after the policy has been issued, and notices of termination and reinstatement.

The examiners reviewed the following types and number of files received by the Bureau during the period under review:

No	Type
50	New business policies
50	Renewal policies
100	Policies filed with the Bureau in excess of 60 days after the policy's effective date
100	Termination notices
100	Reinstatement notices
50	Endorsements

In addition, the examiners reviewed the process used by the Bureau to handle and process policy information. The following exceptions were noted.

The examiners noted that there is no written procedure or procedural manual for staff to follow when processing the policy information received by the Bureau.

The Bureau advised the examiners that as policy information is received, the Bureau verifies the accuracy of certain information reported and checks for compliance with specific approved rules, rates, and rating plans. If the Bureau discovers any incorrect items or requires additional information about the policy information or the risk being insured, it issues a mandatory or advisory Notice of Carrier (NTC) to the member that issued the policy. A mandatory NTC requires the insurer to promptly make the necessary corrections to the policy information and/or provide the Bureau with additional information needed to process the policy information. Members are required to respond to a mandatory NTC. An advisory NTC is meant to provide information to the member regarding the risk insured. Members are not required to respond to an advisory NTC.

The examiners found that in 1999 and 2000 on average less than 27% of the policies received by the Bureau required that one or more NTCs be sent to the member that issued the policy. The examiners also found that of those members that had filed more than 200 policies during the same period, 42 had a notice to policy count ratio in excess of 50%, with the ratio for 10 of these members exceeding 90%. The Bureau advised the examiners that it does try to work with those members that do not respond timely to the notices. However, the Bureau does not have a specific procedure to identify those members that generate an above average number of notices in relation to the number of policies filed with the Bureau.

- 13. Recommendation:** It is recommended that the Bureau develop a procedure to identify members that generate an above average number of notices in relation to the number of policies filed with the Bureau and to be more aggressive in trying to resolve problems with those members that file a significant number of policies each year and have a greater than average number of notices in relation to the number of policies written. It is further recommended that the Bureau report to the Commissioner those members that do not work in good faith with the Bureau to resolve the issues that result in a higher than average number of notices.

The examiners found six files where the Bureau sent a mandatory NTC to a member requesting the member to cancel a policy because replacement coverage for the employer had been received. In each case, the replacement coverage was effective on the employer's normal anniversary date and there was no apparent duplicate coverage. The Bureau advised the examiners that it sends a mandatory NTC to the prior insurer to advise the member that coverage has been replaced. Section 102.31 (2) (b) 2, Wis. Stat. and ch. Ins 21.01, Wis. Adm. Code, provide that regardless of whether proper notice of a cancellation or termination has been given, a worker's compensation insurance policy is terminated effective upon the effective date of replacement insurance coverage obtained by the employer.

- 14. Recommendation:** When notifying a member insurer of replacement coverage, it is recommended that the Bureau use an advisory, not mandatory, Notice to Carrier when an employer voluntarily replaces coverage, the replacement coverage is effective on the employers normal anniversary date and there is no duplicate coverage.

The examiners found that when data entering an incoming policy into the Bureau computer system, the system displays the policy agent information from the prior policy. The policy processor must decide to let the agent information stay as is, change it or delete it. The Bureau advised that it is their procedure to allow the agent information to stay in the system as is when the agent information listed on the incoming policy is the same or when there is no agent listed and the incoming policy is a renewal policy issued by the same insurer.

- 15. Recommendation:** To ensure that the information in the Bureau computer system accurately reflects the actual agent information shown on a policy, it is recommended that during data entry the prior agent information be amended, as needed, to reflect the actual agent of record as listed on the policies regardless of whether the incoming policy is a new or renewal policy.

The examiners found ten files where the Bureau did not levy a fine to a member for failing to file evidence of coverage in excess of 60 days after the policy's effective date. Of these ten files, fines should have been levied for three of the files and were not due to a processing error. For the remaining seven files, the Bureau advised that the members were not fined because the Bureau does not levy a fine for failure to file evidence of coverage timely if:

- The policy is a renewal policy and the prior policy was not cancelled, or;
- The policy is a new policy issued by a member insurer affiliated with the prior insurer insuring the risk and the prior policy was not terminated.

The Bureau advised examiners that it would levy a fine if a member failed to file evidence of coverage timely and the policy was a new policy and the insurer was not affiliated with the prior insurer, even though the prior policy had not been cancelled. Based on the guidelines noted above, Bureau members are treated differently under the exact same circumstance based solely on the members ownership or management relationship with the prior insurer. As noted earlier in the report, membership by group is not permitted. Individual companies within a group must be a Bureau member, subscribe to, and accept the bylaws of the Bureau. Section 626.35, Wis. Stat., states that:

“(1) An insurer who provides a contract under s. 102.31 (1) (a) shall file with the bureau a copy of the contract, or other evidence of the contract as designated by the bureau, not more than 60 days after the effective date of the contract.

(2) The bureau may assess a penalty, in accordance with a schedule adopted by the bureau, against an insurer who fails to comply with sub. (1).”

In addition, s. 626.31(1) (c), Wis. Stat., provides that the services of the Bureau shall be supplied to members without discrimination and that each member shall pay an equitable share of the cost of operating the Bureau.

**16. Recommendation:** It is recommended that the Bureau revise the schedule adopted in accordance with s. 626.35 (2), Wis. Stat., to comply with s. 626.31 (1) (c), Wis. Stat. and that fines be issued to members in accordance with the revised schedule.

In accordance with s. 626.09 (1) (a), the Bureau establishes, maintains and administers the rules, regulations, classifications, rates and rating plans to govern the transaction of worker’s compensation insurance in Wisconsin. Pursuant to s. 626.13, Wis. Stat., the Bureau filed with the Commissioner on behalf of its members the Basic Manual for Worker’s Compensation and Employers Liability Insurance<sup>3</sup> (Basic Manual), including the Wisconsin Exception pages to the Basic Manual, which contains the classifications, rules and rates for use in Wisconsin. In addition, the Bureau has filed the Experience Rating Plan Manual for Worker’s Compensation and Employers Liability Insurance<sup>4</sup> (Experience Rating Manual) including the Wisconsin Exception pages to the Experience Rating Manual.

The examiners found four policies effective between July 5, 2000 and August 1, 2000 where the insurer did not use the correct rates on the policy. In each case, the correct rates would have been the rates effective July 1, 2000. No action was taken by the Bureau to request the insurer to endorse the correct rates on the policy. The Bureau advised the examiners that:

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<sup>3</sup> The Basic Manual for Workers Compensation and Employers Liability Insurance is a publication of the National Council on Compensation Insurance (NCCI) used by the Bureau with the permission of the NCCI.

<sup>4</sup> The Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance is a publication of the National Council on Compensation Insurance (NCCI) used by the Bureau with the permission of the NCCI.

“For policies received up to 2 months after the effective date of a rate revision, we do not question the rates. For approximately two months after a rate revision, we get boxes of endorsements changing the rates from each carrier. We sort these endorsements to determine which are also showing or changing an experience modification. Rate change endorsements with an experience modification are added to the file in PaperVision™, the rest of the rate change endorsements are not kept. Because we do not keep the rate change endorsements, we do not question the carriers rates on the policy after the rate change approval.”

Rule VI.A.5 - Show Rates in Item 4 of the Information Page, in the Wisconsin Exception pages of Basic Manual states that:

“For each classification shown in Item 4, the manual rate or other authorized rate shall be stated in the column headed 'Rate per \$100 of remuneration.'”

Rule VI.A.2 - Manual Rate, in the Wisconsin Exception pages of the Basic Manual states that:

“Manual rate for each for each classification is shown after its code number on the Wisconsin rate pages in Part Three of this Manual.”

In addition, Rule VI.A.3 - Authorized Rate, in the Wisconsin Exception pages of the Basic Manual states that:

“Authorized rate means the manual rate or any other rate that has been filed by the Wisconsin Compensation Rating Bureau and approved by the Wisconsin Office of the Commissioner of Insurance for use by all insurers.”

The examiners found two policies with multiple states, including Wisconsin, listed in Item 3A of the policy where the expense constant used on the policy was not correct. The Bureau advised the examiners that it does not verify that the expense constant on multi-state policies is correct or at least equal to the Wisconsin expense constant. Rule VI.E.9. - Minimum Premium - Multiple State Policies, of the Basic Manual states that:

“If a policy provides workers compensation insurance in more than one state, the minimum premium to be charged for the policy shall be the single highest of the individual state's minimum premiums even if that state is on an 'if any' basis.”

The examiners found four policies where the insurer was not using the correct experience rating modification factor on the policy. The Bureau advised the examiners that it does not request the insurer to endorse the correct experience rating modification factor on to a

policy. Rule VI.G. - Premium Modifications - Experience Rating Plan, of the Basic Manual states that:

“If the risk is subject to experience rating, the experience rating modification shall be shown in Item 4 of the Information Page and applied to the premium in accordance with the Experience Rating Plan Manual.”

The Commissioner has approved for use by all insurers writing worker’s compensation insurance in Wisconsin the Basic Manual, the Experience Rating Manual and their respective Wisconsin Exception pages. Section 626.25 (1), Wis. Stat., provides that no insurer may use a rate, rating plan or classification nor an expense loading not approved by the Commissioner.

- 17. Recommendation:** To ensure compliance with s. 626.25 (1), Wis. Stat., it is recommended that the Bureau verify that the correct rates are used on all policies and that the Bureau require an insurer to endorse the policy accordingly if the correct rate is not used. It is further recommended that the Bureau record and retain all endorsements, including but not limited to rate change endorsements, which contain pertinent information related to a policy, the premium being charged and the coverage provided to a Wisconsin employer.
- 18. Recommendation:** It is recommended that the Bureau verify that the expense constant on a multi state policy showing Wisconsin in Item 3A is at least equal to the applicable expense constant for Wisconsin, to ensure compliance with s. 626.25 (1), Wis. Stat. It is further recommended that the Bureau require an insurer to endorse a policy accordingly, if the expense constant on a multi-state policy is not at least equal to the applicable Wisconsin expense constant.
- 19. Recommendation:** It is recommended that the Bureau verify that the correct intrastate experience modification rating factor is used on all policies to ensure compliance with s. 626.25 (1), Wis. Stat. It is further recommended that the Bureau require an insurer to endorse the policy accordingly if the correct intrastate experience modification rating factor is not used on a policy.

### ***Wisconsin Contractors Premium Adjustment Program***

The Bureau adopted, filed and received approval from the Commissioner for a pilot Wisconsin Contractors Premium Adjustment Program (WCPAP) effective July 1, 1997. Under WCPAP, a premium credit is granted to employers that qualify for the program. An employer qualifies for the program if the employer’s policy 1) contains one or more contracting classifications and 2) has at least 50% of its exposure or premium in the contracting classifications. Employers wishing to receive a WCPAP credit must apply to the Bureau

annually. The Bureau reviews each application to determine if the employer qualifies for the program and determined the amount of the WCPAP credit to be granted.

The credit authorized by the Bureau must appear in Item 4. of the Information Page of the policy or be endorsed on the policy if the credit was not available at the time the policy was issued. At audit, the insurer shall verify the information that was submitted by the insured and used in the calculation of the credit. If the insurer discovers an error in the original request for policy credit, the revised information must be submitted to the Bureau so that the credit can be recalculated.

The examiners reviewed the processing of 50 employer applications for WCPAP credits received by the Bureau during the period under review. The following exceptions were noted.

The examiners noted that there is no written procedure or procedural manual for staff to follow when processing the WCPAP applications or requests for WCPAP credit revisions.

The examiners found that the notice to an insured and the insurer regarding the revision of a WCPAP credit does not clearly state that the credit has been revised.

**20. Recommendation:** It is recommended that the notice to the insured and to the insurer regarding a revised Wisconsin Contractors Premium Adjustment Program credit be revised to clearly state that the credit has been revised.

The examiners found one file where the credit given under the Wisconsin Contractors Premium Adjustment Program was not calculated correctly. The Bureau corrected the error immediately and issued a revised credit.

### ***Unit Statistical Plan***

Pursuant to s. 626.09 (1), Wis. Stat. the purposes of the Bureau include, but are not limited to, establishing, maintaining and administering the rates and rating plans for worker's compensation insurance in Wisconsin, cooperating with other rate service organizations and insurers in the development of the rates and rating plans and to secure and analyze statistical and other data required to accomplish these purposes. In order to accomplish these purposes, the Bureau has adopted the Wisconsin Statistical Plan Manual for Worker's Compensation and



Employers Liability Insurance (Unit Stat Plan). The Unit Stat Plan was filed with the Commissioner by the Bureau, and in accordance with s. 626.32, Wis. Stat., it shall be used by the Bureau and its members in recording and reporting of Wisconsin worker's compensation insurance, Wisconsin loss and country-wide expense experience.

The examiners reviewed the Unit Stat Plan and information related to the level of error notices and requests for delinquent reports for all members of the Bureau. The following exceptions were noted.

The examiners noted that there is no written procedure or procedural manual for staff to follow when processing the filings made in accordance with the Unit Stat Plan.

The examiners found that under the Unit Statistical Reporting Program on average 8.43% of the Unit Statistical Reports (USR) to be filed with the Bureau in 1999 and 2000 under the Unit Stat Plan required that one or more notices be sent to members regarding the delinquency of or errors on a USR. The examiners also found that of those members that filed more than 100 USRs during the same period, 26 of the members had a notice to filing ratio in excess of 25%, with the ratio for 5 of these members exceeding 40%. The Bureau advised the examiners that it does try to work with those members that have re-occurring errors, however, there is no formal process to identify specific members with data reporting problems.

- 21. Recommendation:** It is recommended that the Bureau develop a procedure to identify members with data reporting problems and to be more aggressive in trying to resolve problems with those members that file a significant number of Unit Statistical Reports (USRs) each year and have a greater than average notice to filing ratio for delinquent or rejected USRs. It is further recommended that the Bureau report to the Commissioner those members that do not work in good faith with the Bureau to resolve the issues that result in a higher than average number of notices.

### ***Employer Inspections and Test Audits***

Pursuant to s. 626.09 (1) (d), Wis. Stat. a purpose of the Bureau is to inspect and classify risks. In addition, s. 626.32 (2), Wis. Stat., provides that the Bureau shall assign each compensation risk to its proper class, and its classification shall be used by all insurers writing

worker's compensation insurance. This section also provides that on behalf of all members the Bureau shall inspect and make a written survey of compensation risks to determine their proper classifications, maintain a record of its classification of risks and the written surveys of all risks inspected by it showing such facts as are material in the writing of worker's compensation insurance.

To accomplish this purpose and to comply with s. 626.32 (2), Wis. Stat, the Bureau employs individuals who conduct inspections of employer operations to determine the proper classification or classifications for the risk and prepare written reports summarizing the findings. The Bureau conducts two types of inspections, special and regular. Special inspections are those inspections that have been requested by the employer, the Bureau member insuring the risk, the agent of record or Bureau staff. A regular inspection is a routine inspection that was not requested and is used to supplement an inspector's workload as needed.

The examiners reviewed the processing of 50 inspections completed by the Bureau during the period under review. The following exceptions were noted.

The examiners noted that there is no written procedure or procedural manual for staff to follow in the scheduling, processing and handling of the inspections of employer operations.

The examiners found that the Bureau's Test Audit Program has been inactive for approximately ten years. Article II of the bylaws states that the Bureau shall conduct test audits to verify accuracy of members' policy auditing procedures.

**22. Recommendation:** It is recommended that the Test Audit Program be re-activated to ensure compliance with Article II of the bylaws.

### ***Experience Rating Plan***

Section 626.12 (2), Wis. Stat., provides that risks may be classified in any reasonable way for the establishment of rates and minimum premiums. In addition, this section allows for classification rates to be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or

both. The Bureau has adopted the Experience Rating Manual including the Wisconsin Exceptions pages to the Experience Rating Manual as a rating plan that allows for the modification of rates for individual rates. The Experience Rating Manual has been filed with and approved by the Commissioner for use in Wisconsin.

The application of the Experience Rating Manual is a mandatory experience rating plan for all eligible insured employers. An employer becomes eligible for experience rating if the remuneration developed during the experience period produced enough premium to meet the eligibility threshold. As of July, 1, 2000, an employer would qualify for experience rating if the remuneration developed during the last year or last two years of the experience period produced a premium of at least \$10,000 or if remuneration developed during the experience period of more than two years produced an average annual premium of at least \$5,000.

The examiners reviewed the Experience Rating Manual and its related Wisconsin Exception pages for compliance with Wisconsin insurance laws. In addition, the examiners reviewed the Bureau's processing of 50 risks where an experience rating factor was promulgated during the period under review. The following exceptions were noted.

The examiners noted that there is no written procedure or procedural manual for staff to follow in the processing, prorogating, and revising of experience rating modification factors.

The examiners found that the standard letter used by the Bureau to notify an insured employer that the employer's worker's compensation insurance policy will no longer be subject to experience rating does not clearly indicate the time frame used to determine the employer's eligibility for an experience rating modification factor. As such, an employer is not able to check its records and verify that it is no longer eligible for an experience rating modification factor.

- 23. Recommendation:** It is recommended that the letter notifying an insured employer that the employer's worker's compensation insurance policy will no longer be subject to experience rating be revised to include information about the availability of additional information on the Bureau's website regarding the eligibility requirements for experience rating.

### ***Wisconsin Worker's Compensation Insurance Pool***

The examiners also reviewed the operations of the Wisconsin Worker's Compensation Insurance Pool (Pool). The Pool is a risk-sharing plan continued under the provisions of s. 619.01 (6), Wis. Stat., to provide worker's compensation insurance to any Wisconsin employer who is unable to obtain coverage in the open market and who is, in good faith, entitled to such insurance. The Bureau administers the Pool and is the trustee for the Wisconsin Worker's Compensation Insurance Pool Fund (Pool Fund).

All members of the Bureau must participate in the Pool. They are represented by a select number of members that have been designated as servicing carriers. The servicing carriers issue policies in their own name and provide claims, loss control, auditing and other services to employers whose policy has been issued on behalf of the Pool. As of May 31, 2001, there were seven members servicing the Pool on behalf of all Bureau members.

Bureau members share the premiums earned and losses paid under the Pool in direct proportion to their direct Wisconsin worker's compensation insurance premium writings. The servicing carriers retain 30% of the adjusted written premiums for the expenses of servicing the risks insured through the Pool. The remaining premiums go into the Pool Fund for the payment of losses.

The examiners reviewed the procedures for processing applications to the Pool, the Pool Handbook, the Wisconsin Exception Pages to the Basic Manual related to the administration of the Pool and 50 new business applications submitted to the Pool during the period under review. In addition, the examiners reviewed servicing carrier agreements and information related to the handling of Pool risks provided by the servicing carriers at the request of the examiners. The following exceptions were noted.

The examiners found that coverage is bound effective 12:01 A.M. on the day following receipt of a complete application for insurance through the Pool and the appropriate deposit premium. In addition, the examiners found that when an incomplete application for insurance is

received and/or the appropriate deposit premium is not included, the Pool will bind the coverage effective at 12:01 A.M. on the day following receipt of the original application provided the producer and/or insured provides the Pool with a complete application for insurance and/or appropriate deposit premium within 15 calendar days after the Pool notifies the producer and/or insured of the deficiencies in the application. Rule III.A.1 - Extension of Coverage - New Business, of the Rules Governing the Insuring of Risks as Required by Section 619.01 (c), Wis. Stat., of the Wisconsin Exception pages to the Basic Manual states that:

"the president shall designate a servicing carrier to provide coverage to the risk effective as of 12:01 a.m. on the day following receipt of the premium by the Bureau."

Section II - Procedures of the Pool Handbook states that:

"Coverage will be bound at 12:01 A.M. on the day following receipt of the application, or on such later day as may be requested."

**24. Recommendation:** It is recommended that the Pool review Rule III.A.1 - Extension of Coverage - New Business, of the Rules Governing the Insuring of Risks as Required by Section 619.01 (c), Wis. Stat., of the Wisconsin exception pages to the Basic Manual, all procedures in the Pool Handbook related to the coverage effective date and the current binding practice of the Pool. It is further recommended that Pool take the appropriate steps to ensure that consistency exists among the rules, procedures and the actual binding practice of the Pool.

Worker's compensation insurance rates include a rating component intended to cover the operating expenses of insurers such as general administrative expenses, underwriting expenses, loss control services, auditing expenses, and other similar costs. A portion of every dollar in premium paid is meant to cover these general expenses of the insurer in servicing the policyholder. It is a well established insurance principle that general expenses are not incurred in direct proportion to the premium, regardless of the premium size. A premium discount is a volume discount that recognizes the fact that, as exposures increase, the general expenses associated with that policy do not increase in the same proportion as the premium. A premium discount is not related to the claims history, exposure basis, rating classification, or business

operations of the insured risk. It recognizes that the relative expense of issuing and servicing larger premium policies is less than for smaller premium policies.

The Bureau filed with the Commissioner and received approval for two schedules of premium discounts; Type A and Type B. Every insurance company must select a single premium discount program, based on the relative level of expenses incurred by the insurer to service its Wisconsin policies. All policies issued by the insurer in the voluntary market must use the selected premium discount schedule. A premium discount has not been allowed for risks insured through the Pool since June, 1988. In June of 1988, OCI agreed to the removal of the premium discount if the WCRB published a depopulation report. The filing requesting the removal of the premium discount from the Pool did not include documentation to support that the principles of a premium discount did not apply to risks insured through the Pool.

The rule prohibiting a premium discount in the Pool should be reconsidered in light of ss. 626.25 (2) and 628.34 (3), Wis. Stat.

Rule I.A.1 of the Rules Governing the Insuring of Risks as Required by Section 619.01 (c), Wis. Stat., in the Basic Manual states that:

“The Wisconsin Workers Compensation Insurance Pool shall be administered by the President of the Bureau under the direction of a committee known as the Wisconsin Workers Compensation Insurance Pool Committee. This Committee shall be composed of an equal number of stock and non-stock companies selected by the Wisconsin Commissioner of Insurance in consultation with the President of the Wisconsin Compensation Rating Bureau with due regard to service facilities, financial stability, and dedicated staff. These Committee members shall also be servicing carriers for the Pool and, as such, shall issue policies and provide service to all Pool risks.”

On September 29, 1999, the Commissioner approved a revision to Rule I.A.1 of the Rules Governing the Insuring of Risks as Required by Section 619.01 (c), Wis. Stat., in the Basic Manual. The revised rule states:

“The Wisconsin Workers Compensation Insurance Pool shall be administered by the President of the Bureau under the direction of a committee known as the Wisconsin Workers Compensation Insurance Pool Committee. This Committee shall be composed of an equal number of stock and non-stock companies. The Wisconsin Commissioner of Insurance, in consultation with the President of the

Wisconsin Compensation Rating Bureau, shall select all servicing carriers for the Pool, with due regard to service facilities, financial stability, and dedicated staff. All servicing carriers shall be members of the Pool Committee. If an unequal number of stock and non-stock companies are acting as servicing carriers, additional member carriers will be appointed to serve on the Pool Committee by the Governing Committee of the Wisconsin Compensation Rating Bureau. The servicing carriers shall issue policies and provide service to all Pool risks.”

- 25. Recommendation:** It is recommended that Rule I.A.1 of the Rules Governing the Insuring of Risks as Required by Section 619.01 (c), Wis. Stat., in the Basic Manual be updated to reflect the revision to the rule approved by the Commissioner on September 29, 1999.

The examiners found one new business application to the Pool where the agent did not include an agent license number and the examiners were unable to identify the producer submitting the business. The examiners found that the producer submitting an application for insurance to the Pool must include on the application his or her Wisconsin agent license number, social security number or Federal Employer Identification Number. However, the Pool does not take any action to verify that the producer holds a valid Wisconsin intermediary license before accepting an application for insurance and binding the coverage when the producer's address is in Wisconsin. If the producer's address is outside of Wisconsin, the Pool requires that the producer to submit a copy of his or her license, however the Pool does not take any action to verify that the producer's license is still valid. Section 628.03 (1), Wis. Stat., provides that no person may utilize the services of another as an intermediary if the person knows or should know that the other does not have a license as required by law.

- 26. Recommendation:** To ensure compliance with s. 628.03 (1), Wis. Stat., it is recommended that at the time an application for insurance is submitted to the Pool, the Pool verify that the producer submitting the application does in fact hold a valid Wisconsin intermediary license.

The examiners found one servicing carrier agreement that was not properly executed as the agreement lacked the date it was signed and the name of the insurer entering into the agreement.

- 27. Recommendation:** It is recommended that when a signed servicing carrier agreement is received, that the Pool review the document for completeness and take the appropriate action to correct any deficiencies.

The examiners found that the format of the disclosure of the insured's right to contact the Commissioner regarding an insurance problem used by five of the seven servicing carriers does not comply with s. Ins 6.85, Wis. Adm. Code. In addition, the examiners found that the remaining two servicing carriers do not send any notice to policyholders of their right to contact the Commissioner regarding an insurance problem. Section Ins 6.85 (4), Wis. Adm. Code, states that:

“Every insurer shall disclose the insured's right to contact the office of the commissioner of insurance regarding an insurance problem by providing a notice which shall:

- (a) Be in the form as prescribed in Appendix I or for policies subject to sub. (5) (d) in form as prescribed in Appendix 2;
- (b) Include the issuer's address, toll free phone number, if available, and phone number in no less than 12-point type and bold print.
- (c) Be in no less than 10-point type; and
- (d) Have the phrase 'KEEP THIS NOTICE WITH YOUR INSURANCE PAPERS,' 'PROBLEMS WITH YOUR INSURANCE?' in Appendix I and the 'OFFICE OF THE COMMISSIONER OF INSURANCE' in Appendices I and 2 capitalized and in bold lettering.”

**28. Recommendation:** It is recommended that the Pool direct the servicing carriers to comply with s. Ins 6.85, Wis. Adm. Code.

The examiners found that the renewal notice sent by two servicing carriers does not effectively terminate coverage for failure to timely pay the renewal premium as the notices do not state clearly the effect of non-payment of premium by the due date. Section Ins 21.01 (6) (a), Wis. Adm. Code, provides that a policyholder has a right to have the worker's compensation policy renewed, unless at least 60 days prior to the date of expiration provided in the policy a notice of intention not to renew the policy beyond the agreed expiration date is mailed or delivered to the policyholder, or with respect to failure timely to pay a renewal premium a notice is given, not more than 75 days nor less than 30 days prior to the due date of the premium, which states clearly the effect of nonpayment of premium by the due date.

**29. Recommendation:** To ensure that coverage is effectively terminated when the insured fails to timely pay the renewal premium, it is recommended that the Pool



direct the servicing carriers to revise the notices of renewal to comply with s. Ins 21.01 (4) (a), Wis. Adm. Code.

The examiners found that the termination notice used by one servicing carrier to terminate coverage when the policyholder has not paid the renewal premium does not provide the reason for the non-renewal. The nonrenewal notice states:

“WISCONSIN LAW PROVIDES THAT UPON WRITTEN REQUEST TO THIS COMPANY, THIS COMPANY WILL FURNISH YOU IN WRITING THE FACTS ON WHICH THE NONRENEWAL WILL BE MAILED TO YOU WITHIN 5 WORKING DAYS AFTER RECEIPT OF YOUR REQUEST.”

Section Ins 21.01 (8), Wis. Adm. Code, provides that a notice of cancellation or nonrenewal shall state with reasonable precision the facts on which the insurer's decision is based and that no such notice is effective unless it so states the facts. In addition, s. Ins 21.01, (10), Wis. Adm. Code, provides that s. Ins 21.01 (8), Wis. Adm. Code, does not apply if the grounds for cancellation or nonrenewal is nonpayment of the premium and if the notice so states.

**30. Recommendation:** To ensure compliance with ss. Ins 21.01 (8) and (10), Wis. Adm. Code, it is recommended that the Pool direct the servicing carrier to state with reasonable precision the facts on which the insurer's decision is based.

The examiners found that three of the servicing carriers use their generic group name rather than the specific name of the insurer that is actually servicing the policy on behalf of the Pool on several policyholder communications regarding the status of the policy. The types of communications that contain only the generic group name include the servicing carriers' offer to renew a policy, notice of cancellation, notice of reinstatement, and notices of due premium.

The examiners found that two servicing carriers are providing its policyholders with general information regarding worker's compensation insurance that contain incorrect, incomplete and/or outdated information about worker's compensation in Wisconsin.

The examiners found that one servicing carrier is providing its policyholders with a notice stating that:

“If, for any reason, you wish to cancel this policy before its normal expiration date, you may not receive full pro rata premium for the cancelled term.”

The servicing carrier advised the examiners that its practice is to process all cancellations of Pool policies on a pro rata basis. The Wisconsin Worker's Compensation Insurance Pool Handbook provides that an employer may be removed from the Pool at any time, without penalty by an authorized insurance company willing to provide voluntary coverage and that no short rate penalties are assessed when an employer is removed from the Pool.

Section 628.34 (1), Wis. Stat., provides that no person who is or should be licensed under chs. 600 to 646, no employee or agent of any such person, no person whose primary interest is as a competitor of a person licensed under chs. 600 to 646, and no person on behalf of any of the foregoing persons may make or cause to be made any communication relating to an insurance contract, the insurance business, any insurer or any intermediary which contains false or misleading information, including information misleading because of incompleteness.

- 31. Recommendation:** To ensure compliance with s. 628.34 (1), Wis. Stat., it is recommended that the Pool direct the servicing carriers to use the specific company name issuing a policy on behalf of the Pool on offers to renew coverage, premium due notices, notices of termination, notices of reinstatement and other such communications to the policyholder regarding the status of the coverage.
- 32. Recommendation:** It is recommended that the Pool direct the servicing carriers to review the general information regarding worker's compensation insurance currently being provided to their policyholders and revise it accordingly to ensure compliance with s. 628.34 (1), Wis. Stat. It is further recommended that the Pool direct all servicing carriers to review and revise general information provided to policyholders about worker's compensation insurance on a regular basis to ensure that incorrect and outdated information is not being provided to policyholders.
- 33. Recommendation:** To ensure compliance with s. 628.34 (1), Wis. Stat., it is recommended that the Pool direct the servicing carrier to stop notifying policyholders of the potential for a less than pro rata return of premium if the policyholder cancels the policy before its normal expiration date.

## **VI. FINANCIAL EXAMINATION FINDINGS**

### **Wisconsin Compensation Rating Bureau**

#### ***Financial Data***

The following financial statements reflect the financial condition of the Bureau as reported in the December 31, 2000, audited financial statements sent to the Commissioner of Insurance. Also included in this section are schedules, which reflect the growth of the Bureau. Adjustments made as a result of the examination are noted in the area entitled "Reconciliation of Members' Net Assets per Examination."

**Wisconsin Compensation Rating Bureau**  
**Assets**  
**As of December 31, 2000**

	<b>Ledger Assets</b>	<b>Admitted Assets</b>
Current Assets		
Cash	\$1,862,093	\$1,862,093
Write-ins for other than invested assets		
Misc. Accounts Receivable	1,274,961	1,274,961
Prepaid Expenses	<u>7,637</u>	<u>7,637</u>
Total Assets	<u>\$3,144,691</u>	<u>\$3,144,691</u>

**Wisconsin Compensation Rating Bureau**  
**Liabilities and Net Assets**  
**As of December 31, 2000**

Current Liabilities		
Accounts Payable		
Trade	\$259,591	
Notes Payable-Current	44,019	
Accrued Interest	218	
Accrued Vacation	6,247	
Accrued Pension Liability	<u>331,308</u>	
Total Current Liabilities	<u>641,383</u>	
Long-term Liabilities		
Notes Payable	48,641	
Less Current Portion	<u>(44,019)</u>	
Total Long-term Liabilities	<u>4,622</u>	
Total Liabilities		646,005
Net Assets		
Unrestricted Net Assets		
Accountability of Members to be Refunded		<u>2,498,686</u>
Total Net Assets		<u>2,498,686</u>
Total Liabilities and Net Assets		<u>\$3,144,691</u>

**Wisconsin Compensation Rating Bureau  
Statement of Activities  
For the Year 2000**

**Assessments**

Advance Budgetary Assessments		\$5,595,645
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**Revenue**

Total Direct Charges and Other Revenue	1,977,151	
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**Operating Expenditures**

Total Operating Expenditures	<u>4,945,934</u>	
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Net Expenditures Assessable to Members		<u>2,968,783</u>
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Excess of Advance Assessments Over Net Expenditures		2,626,862
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Net Assets at the Beginning of the Year		1,513,618
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Distribution to Members		<u>(1,641,794)</u>
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Net Assets at the End of the Year		<u><u>\$2,498,686</u></u>
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**Wisconsin Compensation Rating Bureau**  
**Cash Flow**  
**As of December 31, 2000**

Cash Flows from Operating Activities:

Excess of Advance Assessments over Net Expenditures		\$2,626,862
Adjustments to Reconcile Revenue		
Increase in Accounts Receivable	(753,090)	
Decrease in Prepaid Expenses	20,084	
Decrease in Accounts Payable	(145,858)	
Decrease in Accrued Expenses	<u>(47,462)</u>	
Net Adjustments		<u>(926,326)</u>
Net Cash from Operations		1,700,536

Proceeds from investments sold, matured, or repaid:

Cash Flows from Financing Activities:

Principal Payments on Borrowings	(115,997)	
Distribution of Prior Year's Accountability of Members	<u>(1,641,794)</u>	
Net Cash Used by Financing Activities		<u>(1,757,791)</u>
Net Change in Cash and Short-term Investments		(\$57,255)

**Reconciliation**

Cash and Short-term Investments, December 31, 1999	<u>1,919,348</u>
Cash and Short-term Investments, December 31, 2000	<u>\$1,862,093</u>

**Wisconsin Compensation Rating Bureau  
Reconciliation and Analysis of Net Assets  
For the Fifteen-Year Period Ending December 31, 2000**

The following schedule is a reconciliation of total net assets during the period under examination as reported by the Bureau in its audited financial statements:

	<b>1986</b>	<b>1987</b>	<b>1988</b>	<b>1989</b>	<b>1990</b>
Net assets, beginning of year	\$368,742	\$381,194	\$315,436	\$526,935	\$645,118
Excess of advance assessments over net expenditures	381,194	315,436	526,935	645,118	708,897
Distribution to members	(368,742)	(381,194)	(315,436)	(526,935)	(645,118)
Net assets, end of year	<u>\$381,194</u>	<u>\$315,436</u>	<u>\$526,935</u>	<u>\$645,118</u>	<u>\$708,897</u>
	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>
Net assets, beginning of year	\$708,897	\$675,946	\$820,340	\$804,260	\$803,591
Excess of advance assessments over net expenditures	675,946	820,340	804,260	803,591	474,861
Distribution to members	(708,897)	(675,946)	(820,340)	(804,260)	(803,591)
Net assets, end of year	<u>\$675,946</u>	<u>\$820,340</u>	<u>\$804,260</u>	<u>\$803,591</u>	<u>\$474,861</u>
	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>
Net assets, beginning of year	\$474,861	\$589,549	\$634,028	\$1,782,947	\$1,513,618
Excess of advance assessments over net expenditures	904,968	1,020,063	2,142,893	1,640,092	2,626,862
Distribution to members	(790,280)	(975,584)	(993,974)	(1,909,421)	(1,641,794)
Net assets, end of year	<u>\$589,549</u>	<u>\$634,028</u>	<u>\$1,782,947</u>	<u>\$1,513,618</u>	<u>\$2,498,686</u>

**Growth of Wisconsin Compensation Rating Bureau**

<b>Year</b>	<b>Admitted Assets</b>	<b>Liabilities</b>	<b>Net Assets</b>	<b>Distribution To Members</b>
1986	\$460,504	\$79,310	\$381,194	\$368,742
1987	390,912	75,476	315,436	381,194
1988	628,020	101,085	526,935	315,436
1989	779,157	134,039	645,118	526,935
1990	890,678	181,781	708,897	645,118
1991	921,567	245,621	675,946	708,897
1992	1,015,135	194,794	820,340	675,946
1993	1,103,365	299,105	804,260	820,340
1994	1,090,900	287,309	803,591	804,260
1995	1,216,869	742,008	474,861	803,591
1996	1,763,985	1,174,436	589,549	790,280
1997	1,742,669	1,108,641	634,028	975,584
1998	2,618,924	835,977	1,782,947	993,974
1999	2,468,944	955,326	1,513,618	1,909,421
2000	3,144,691	646,005	2,498,686	1,641,794

The Bureau's assets and net assets have increased steadily over the period under review. In 2000, the Bureau's assets were 582% larger than in 1985, and net assets were 555% larger. Distributions of over \$12.3 million were made to the members of the Bureau between 1985 and 2000.

### ***Reconciliation of Net Asset Balance per Examination for the Bureau***

There were no changes made to the Bureau's reported December 31, 2000 net asset balance as a result of the examination.

### ***Management and Control***

The Bureau does not regularly review the financial condition and/or internal controls for any party administering work on the Bureau's behalf. A Service Auditor's Report Type II, as defined in the Statement on Auditing Standards number 70 pertaining to service organizations ("SAS 70"), is an internal control report that can be produced on request by the CPA who conducts the yearly audit of a service firm. Review of the "SAS 70" report on key administrators could be used to gain assurance that the entity is operating properly. As of December 31, 2000, the National Council on Compensation Insurance was the only company that would need to supply the Bureau with the report.

- 34. Suggestion:** It is suggested that the Bureau request and review Service Auditor's Reports (Type II) for any party administering work on the Bureau's behalf under an agreement.

### ***Accounts and Records***

The Bureau's disbursement procedures were reviewed. The examiners found that in a Governing Committee resolution and in the printing on the Bureau checks, two signatures are required. It is the Bureau's current policy to require two signatures on all disbursements, except when the Bureau is acting as a trustee on behalf of the Pool then only one signature is required. An examination of the Bureau's disbursements revealed two instances where checks had only one signature. The disbursement amounts that had only one signature were \$614 and \$34,289.



- 35. Recommendation:** It is recommended that the Bureau consistently follow its current policy pertaining to dual signatures on check disbursements.

The examiners also found that the second signer was a direct subordinate of the first signer, in the same department. It is a good accounting control to have the second signer be someone other than a direct subordinate of the first signer; as it limits exposure to potential abuses and improves communication of significant transactions to multiple departments/parties within the Bureau.

- 36. Suggestion:** It is suggested that the Bureau formally document its current check signing process outlining the hierarchy of whose signatures are required taking in consideration that direct subordinates, in the same department, should not be the second signer.

The examiners reviewed procedures pertaining to business expenses and reimbursements for those expenses. The examiners found that upper level management approves the business expense reports, but there were no formal written guidelines regarding the Bureau expense reimbursement policy. It is a good control that formal business expense reimbursement guidelines be written and followed so that it is being applied uniformly throughout the organization.

- 37. Suggestion:** It is suggested that the Bureau formally document its existing guidelines pertaining to the approval and reimbursement of business expenses.

The examiners reviewed the Bureau's credit card procedures. The Bureau advised the examiners that there were no formal written procedures for credit card use. The examiners noted a few instances where personal items were charged on the Bureau credit card. The individual card user did not identify these charges to the Financial Assistant, the individual responsible for paying the credit card bills. Instead, the Financial Assistant had to discover the personal item and remind the card user that the item will not be reimbursed. It is a good business practice that formal written credit card procedures be in place, distributed to card users, and be followed in order to limit exposure to potential abuses.

- 38. Suggestion:** It is suggested that the Bureau formally document its existing guidelines pertaining to Bureau credit card use and reimbursement.

The examiners reviewed the various Bureau receivable balances. The examiners found that the Notices to Carriers Fines receivable balance and the Unit Statistical Card Fines receivable balance have items over 90 days past due. The Bureau fines members when they fail to provide all necessary worker's compensation policy information within 60 days of the issuance of a notice from the Bureau requesting the missing information. Additional fines are levied for each additional thirty-day period that the requested information remains outstanding. The examiners noted that if the Notice to Carriers Fines receivable balances and/or Unit Statistical Card Fines receivable balances for a member are not settled before a "distribution to members" is declared, the member's receivable balance will be netted against the cash distribution. A "distribution to members" is declared if the amount of money assessed them exceeds the Bureau's expenditures. The aggregate amount of declared distributions over a five-year period is paid in the fifth year. The issue here is not that the fines are accumulating, but that the information required by Bureau, to have accurate and reliable data, is not being received in a timely fashion.

- 39. Suggestion:** It is suggested that the Bureau develop and implement a formal written procedure that will better address the collection of the missing information.

### ***Payroll***

The Bureau's payroll procedures were reviewed. The examiners found that non-exempt employees fill out a weekly Time Sheet. Non-exempt employees have a 37.5-hour workweek; 37.5 hours to 40 hours is paid at regular pay; and hours worked over 40 is paid as overtime. Hours worked over 37.5 require an approval signature from the Financial Assistant. It is also the Bureau's policy that non-exempt employees' Time Sheets be approved by the non-exempt employees' direct supervisors and/or Bureau management. The examiners were not able to determine whether the non-exempt employees' supervisors and/or Bureau management were approving the Time Sheets. It is a good control to have the non-exempt employees' supervisor

and/or Bureau management approve the weekly non-exempt Time Sheet by signing them to provide evidence of approval.

- 40. Suggestion:** It is suggested that the Bureau revise its existing procedures to include the written approval of the non-exempt employee's weekly time reporting sheets by their direct supervisor and/or Bureau management.

The examiners also found that exempt employees fill out a Monthly Time Sheet that keeps track of all vacation and other days off. It is the Bureau's policy that exempt employees' Time Sheets be approved by the Financial Assistant as well as by the exempt employees' direct supervisors and/or Bureau management. However, it was noted that the only written approval on the time sheets was the Financial Assistant's. The examiners' were not able to determine whether the exempt employees' supervisors and/or Bureau management were approving the Time Sheets. It is a good control to have the exempt employees' supervisor and/or Bureau management approve the Monthly Exempt Time Sheet by signing them to provide evidence of approval.

- 41. Suggestion:** It is suggested that the Bureau revise its existing procedures to include the written approval of the exempt employee's monthly time sheets by their direct supervisor and/or Bureau management.

### ***Disaster Recovery***

A disaster recovery plan identifies steps to be performed in case a company is not able to access its computer, information on its computer was lost, or the office building was destroyed, to name a few contingencies. The examiners were advised that the Bureau does not have a disaster recovery plan.

- 42. Recommendation:** It is recommended that the Bureau develop a comprehensive disaster recovery plan that would clearly identify what would be done in cases where it is not able to access its computers or the office building is destroyed.

## **Wisconsin Worker's Compensation Insurance Pool**

### ***Financial Data***

The following financial statements reflect the financial condition of the Pool as reported in the December 31, 2000, audited financial statements sent to the Commissioner of Insurance. Also included in this section are schedules, which reflect the growth of the Pool. Adjustments made as a result of the examination are noted in the area entitled "Reconciliation of Members' Net Assets per Examination."

**Wisconsin Workers Compensation Insurance Pool**  
**Assets**  
**As of December 31, 2000**

	<b>Ledger Assets</b>	<b>Admitted Assets</b>
Investments (at cost)	\$192,501,275	\$192,501,275
Cash	416,853	421,653
Accrued interest receivable	2,804,582	2,595,477
Net due from member companies	170,191	532,529
Net due from insureds – transfers in bankruptcy	<u>80,834</u>	<u>80,834</u>
Total Assets	<u>\$195,973,735</u>	<u>\$195,973,735</u>

**Wisconsin Workers Compensation Insurance Pool**  
**Liabilities and Net Assets**  
**As of December 31, 2000**

Disbursements declared but not distributed	12,823,352
Net due to servicing carrier companies	1,382,499
Net due to investment managers	<u>78,912</u>
Total Liabilities	14,284,763
Unrestricted net assets	<u>181,688,972</u>
Total net assets	<u>181,688,972</u>
Total Liabilities and net assets	<u>\$195,973,735</u>

**Wisconsin Workers Compensation Insurance Pool**  
**Summary of Operations**  
**For the Year 2000**

**Premium Written**

Premiums written on rejected risks (net figure)	\$30,189,486	
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**Deductions**

Servicing fees retained by servicing companies	<u>9,518,739</u>	
Earned premium		\$20,670,747

Claims paid by and refunded to servicing companies	<u>23,760,060</u>	
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Premium Income/Loss	(3,089,313)	
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**Investment Income**

Net investment income earned	11,528,405	
Net investment expenses	(401,614)	
Net realized capital gains or losses	<u>(1,550,187)</u>	
Net investment gain or loss		9,576,604

**Other Expenses**

Department of labor assessments	<u>(87,407)</u>	
Total other expenses		<u>(87,407)</u>

Change in net assets		<u><u>\$6,399,884</u></u>
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**Wisconsin Workers Compensation Insurance Pool  
Reconciliation and Analysis of Net Assets  
For the 15-Year Period Ending December 31, 2000**

The following schedule is a reconciliation of total Net Assets during the period under examination as reported by the Pool in its audited financial statements:

	<b>1986</b>	<b>1987</b>	<b>1988</b>	<b>1989</b>	<b>1990</b>
Net assets, beginning of year	\$43,050,918	\$65,328,211	\$99,601,460	\$128,153,999	\$165,009,083
Assessment Declared but not Levied for fund balance def.	5,970,408	17,268,053	15,234,813	10,480,190	
Disbursements declared but not distributed					(18,838,360)
Correction of a prior-year assessment			4,795		
Change in net assets	16,306,885	17,005,196	13,312,931	26,374,894	23,068,315
Net assets, end of year	<u>\$65,328,211</u>	<u>\$99,601,460</u>	<u>\$128,153,999</u>	<u>\$165,009,083</u>	<u>\$169,239,038</u>
	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>
Net assets, beginning of year	\$169,239,038	\$200,499,269	\$221,030,882	\$255,997,442	\$248,780,910
Assessment Declared but not Levied for fund balance def.	12,359,214		4,495,140		
Disbursements declared but not distributed		(1,067,999)		(10,492,017)	*(12,602,209)
Change in net assets	18,901,017	21,599,612	30,471,420	3,275,485	5,710,949
Net assets, end of year	<u>\$200,499,269</u>	<u>\$221,030,882</u>	<u>\$255,997,442</u>	<u>\$248,780,910</u>	<u>\$241,889,650</u>
	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>
Net assets, beginning of year	\$241,889,650	\$226,952,317	\$221,599,157	\$212,767,020	\$188,641,640
Disbursements declared but not distributed	(16,448,373)	(9,363,150)	(15,480,664)	(26,378,319)	(13,352,552)
Change in net assets	1,511,040	4,009,990	6,648,527	2,252,939	6,399,884
Net assets, end of year	<u>\$226,952,317</u>	<u>\$221,599,157</u>	<u>\$212,767,020</u>	<u>\$188,641,640</u>	<u>\$181,688,972</u>

\*Disbursement was declared and distributed

The "Net Asset" balance at year-end is a reserve set up by the Pool that is used to pay outstanding losses reported by all the servicing carriers. The "Net Asset" balance is adjusted at year-end by deducting any net amortization losses on securities and the unearned premium reserve at the current year-end. This adjusted value of the "Net Assets" is then compared to an actuary's review of the aggregate outstanding losses reported by all the servicing carriers at year-end (the actuary is hired by the Pool). The actuary's calculations are based on information given to the Pool by the servicing carriers. If the actuary's outstanding loss reserve value is less

than 140% and greater than 125% of the adjusted value of “Net Assets,” Pool rules require that a disbursement be declared but not distributed in an amount sufficient to bring the value of the net assets down to 125% of the aggregate estimated values of such claims. An example of this adjustment of “Net Assets” for year-end 2000 follows:

Net Assets at year-end 2000		\$ 181,688,972
Deduct:		
Net amortization loss on securities		759,546
Unearned premium reserve at December 31, 2000		<u>12,803,200</u>
Adjusted value of net assets, December 31, 2000		168,126,226
Outstanding losses reported by servicing carriers at		
December 31, 2000	\$ 88,587,502	
Actuarial adjustments	<u>34,017,601</u>	
Actuarially adjusted outstanding losses	122,605,103	
Plus 25% of actuarially adjusted outstanding losses	<u>30,651,276</u>	<u>153,256,379</u>
Net Assets Excess, December 31,2000		<u>\$ 14,869,847</u>

The “Assessment declared but not levied for fund balance deficit” balances and the “Disbursements declared but not distributed” balances, mentioned in the above fifteen-year net asset reconciliation, both deal with amounts assessed to Bureau members. Every year members of the Bureau are assessed a fee, based on an actuarially conceived budget and the amount of worker’s compensation premium written by the member, to cover all expenses incurred by the Pool, including paid claims.

If the total expenses incurred by the Pool for the year exceed the amount assessed to the members, an assessment would be declared to cover the deficit. If the assessment was not collected by the year-end, an “Assessment declared but not levied for fund balance deficit” receivable balance is noted. If the opposite were to occur, where the amount assessed to the members exceeded the total expenses incurred by the Pool, a disbursement would be declared for the over assessment. Again at year-end, if the declared disbursement was not paid, a “Disbursements declared but not distributed” payable balance is noted.



### Growth of Wisconsin Workers Compensation Insurance Pool

Year	Admitted Assets	Liabilities	Net Assets	Change in Net Assets
1986	\$65,514,438	\$186,227	\$65,328,211	\$16,306,885
1987	99,677,286	75,826	99,601,460	17,005,196
1988	129,411,953	1,257,954	128,153,999	13,312,931
1989	165,085,833	76,750	165,009,083	26,374,894
1990	171,780,532	2,541,494	169,239,038	23,068,315
1991	202,507,872	2,008,603	200,499,269	18,901,017
1992	224,115,600	3,084,718	221,030,882	21,599,612
1993	258,974,371	2,976,929	255,997,442	30,471,420
1994	254,097,063	5,316,153	248,780,910	3,275,485
1995	250,056,227	8,166,577	241,889,650	5,710,949
1996	250,168,185	23,215,868	226,952,317	1,511,040
1997	252,226,473	30,627,316	221,599,157	4,009,990
1998	256,967,528	44,200,508	212,767,020	6,648,527
1999	191,086,655	2,445,015	188,641,640	2,252,939
2000	195,973,735	14,284,763	181,688,972	6,399,884

  

Year	Net Premium Written	Earned Premium	Loss and LAE Ratio	Expense Ratio	Combined Ratio
1986	53,762,692	37,093,916	71%	0.00%	71%
1987	70,905,767	48,949,128	78%	0.00%	78%
1988	79,739,727	55,118,723	91%	0.00%	91%
1989	96,188,433	66,420,142	82%	0.00%	82%
1990	107,308,609	74,256,861	88%	0.00%	88%
1991	102,294,705	70,232,454	98%	0.00%	98%
1992	104,156,534	71,769,671	98%	0.00%	98%
1993	108,627,737	74,964,665	89%	0.00%	89%
1994	88,798,742	61,109,346	107%	0.28%	107%
1995	62,021,665	42,308,886	127%	0.16%	127%
1996	42,645,081	29,116,850	149%	0.25%	149%
1997	33,611,525	22,849,342	155%	0.21%	156%
1998	27,893,205	19,043,560	157%	0.28%	157%
1999	24,745,806	16,770,119	151%	1.29%	152%
2000	\$30,189,486	\$20,670,747	115%	0.42%	115%

The Pool's assets have increased by 199% to \$196 million for the period under examination, while the liabilities have increased significantly by 7,570% to \$14 million over this same period. Net assets increased by 178% to \$182 million. The written premium balance decreased significantly by \$23.6 million. The loss ratio for the Pool has been high from 1994 to 2000. This is attributed to the nature of business written by the Pool in that it is the insurer of last resort for employers unable to purchase coverage in the voluntary market. The high loss

ratio is not a concern given the purpose of the Pool and that all of the Pool's expenses, including paid claims, are allocated to the Bureau and the Bureau in turn assesses its members to cover all Pool's expenditures for the year.

The Pool's liabilities increased significantly during the period between 1996 to 1998. This was due to an accumulation of "disbursements declared but not distributed" discussed earlier in the report. Prior to 1989, the Pool resolved the liability declared in the following year (example: payment of liability in 1990 for a disbursement declared at year-end 1989). After 1989, the Pool accumulated the "disbursements declared but not distributed balance" for five years and then four years, then disbursed the funds in 1995 and 1999 respectively.

The Pool's gross written premiums had been on the rise from 1988 through 1993 indicating an increased participation in the Pool by Wisconsin employers. In 1994 and 1995, through depopulation efforts, the pool business started to decline as is evident by the gross premium data in the above schedule. Currently the Pool's gross premiums written seem to be in an upward trend again. Overall, it appears that the Pool's business writings are cyclical.

#### ***Reconciliation of Net Asset Balance per Examination for the Pool***

There were no changes made to the Pool's reported December 31, 2000 Net Asset balance due to the examination.

#### ***Management and Control***

The Pool does not regularly review the financial condition and/or internal controls for any party administering work on behalf of the Pool. A Service Auditor's Report Type II, as defined in the Statements on Auditing Standards number 70 pertaining to service organizations ("SAS 70"), is an internal control report that can be produced on request by the CPA who conducts the yearly audit of the service firm. Review of the "SAS 70" report on key administrators could be used to gain assurance that the entity is operating properly. As of December 31, 2000, the three investment advisors and the Bank Trust holding the Pool's investments would need to supply the Pool with "SAS 70" reports.

- 43. Suggestion:** It is suggested that the Pool request and review Service Auditor's Reports (Type II) for any party that is administering work on behalf of the Pool under an agreement.

### ***Accounts and Records***

The Pool's procedures related to servicing carrier charge off of uncollected premium were reviewed. The examiners found that once a request for charge off is approved by the Bureau and/or its Governing Committee, the requested amount is credited to the servicing carrier's account. The examiners also found that the servicing carriers were not taking all approved charge offs. One such charge off found by the examiners has not been resolved since 1996. As of December 31, 2001, the total charge off balance was \$114,539.

- 44. Suggestion:** It is suggested that the Pool develop and implement improvements to its charge off procedures with respect to timely settlement of charge off balances.

The Pool's cash receipts procedures were reviewed. The examiners found that the Vice President of Administrative Services receives checks, enters the checks into the system as received, prepares deposit tickets, endorses checks, and deposits checks into the bank. It is a good accounting control that these procedures are segregated between two or more people.

- 45. Recommendation:** It is recommended that the Pool review its current process as it relates to cash handling procedures as well as proper segregation of duties and take appropriate action.

Payable invoices are received and approved by the Vice President of Administrative Services. The majority of the invoices are from the custodian, investment advisors, and Bureau members requesting reimbursements. The invoices are processed, a check is produced, signatures obtained and then the checks are disbursed. There is no formal written procedure requiring dual management approval of payables at the Vice President level or higher. It is a good control to have two members of upper management approve payables to limit situations and exposure to potential abuse.

- 46. Suggestion:** It is suggested that the Pool establish and implement formal written procedures requiring dual management approval of payables at the Vice President level or higher.

Signatures on check disbursements were also examined. Checks require one signature from either the President or the Vice President of Administrative Services with no limit on the amount of the check. These two individuals also have authorization to transfer and borrow funds without any monetary limits. Having personnel with the power to transfer and distribute an unlimited amount of money is a poor internal control of cash. It was also noted that the check stock states that two signatures are required even though the Governing Committee resolutions states that only one signature is required.

- 47. Suggestion:** It is suggested that the Pool a) update the bank authority resolution to coincide with the Governing Committee resolution, b) establish, document, and implement check and bank transfer limits, and c) require multiple approvals for checks and transfers over the limits set in b).

### ***Invested Assets***

The agreement with the Pool's securities custodian was reviewed. The examiners found that the agreement lacked the indemnification language suggested by the National Association of Insurance Commissioners (NAIC).

- 48. Recommendation:** It is recommended that the Pool amend its securities custodial agreement to comply with the following provisions, found in the NAIC Financial Condition Examiners Handbook:

- a) That the bank or trust company as custodian is obligated to indemnify the insurance company for any loss of securities of the insurance co. in the bank or trust company's custody occasioned by the negligence or dishonesty of the bank or trust company's officers or employees, or burglary, robbery, holdup, theft, or mysterious disappearance, including loss by damage or destruction;
- b) That in the event that there is a loss of the securities for which the bank or trust company is obligated to indemnify the insurance company, the securities shall be promptly replaced or the value of the securities and the value of any of rights or privileges resulting from said loss of securities shall be promptly replaced;

The agreements between the three investment advisors and the Pool were reviewed. The examiners found that the Pool did not have a copy of its agreement with one of the advisors.

- 49. Recommendation:** It is recommended that the Pool retain originals of all agreements with its investment advisors.

## **VII. CONCLUSION**

The market conduct portion of the examination resulted in a total of 33 recommendations. These recommendations relate to the need for the Wisconsin Compensation Rating Bureau (Bureau) and the Wisconsin Worker's Compensation Insurance Pool (Pool) to modify certain management, processing, and underwriting procedures.

The Bureau must ensure that it is complying with its bylaws, s. 626.31, Wis. Stats., and other applicable insurance laws. In addition, the Bureau must take steps to ensure that its members are abiding by the rules that govern worker's compensation insurance.

The Pool must also take measures to ensure that all servicing carriers are complying with the Wisconsin insurance laws and the rules that govern worker's compensation insurance. In addition, to ensure compliance with s. 628.03, Wis. Stat., the Pool must amend its underwriting procedures to ensure that it accepts applications only from agents that hold a valid Wisconsin license.

The financial portion of the examination of the Bureau resulted in two recommendations, eight suggestions, no adjustments to net assets, and no reclassifications. A majority of the recommendations and suggestions pertained to payroll items and procedural issues. Other findings made during the examination address internal administration issues such as payroll, credit card use, and expense vouchers. None of the examination findings appear to be detrimental to the Bureau's financial condition.

The Bureau's assets have steadily increased over the fifteen-year period under examination to \$3,144,691. The net asset balance increased 555%, over the same period, with an end result of \$2,498,686. Distributions to the members of the Bureau averaged \$824,100 in the 1985 through 2000 period. Any expenses incurred by the Bureau, including those expenditures assumed from the Pool, are reimbursed by assessing the Bureau member companies.

The financial portion of the examination of the Pool resulted in three recommendations, four suggestions, no adjustments to net assets, and no reclassifications. Suggestions and recommendations ranged from Management and Control Issues, Accounts and Records issues, to items involving invested assets. A recommendation was made concerning the company's custodial agreement that did not contain indemnification language that complies with the provisions found in the NAIC Financial Condition Examiners Handbook. Other findings include the Pools need for proper segregation of duties for cash receipts handling, timely settlement of charge off balances and dual management approval of payables at the Vice President level or higher.

Assets and liability balances have increased over the fifteen-year period under examination due to the large growth of the Pool. The net asset balance increased 178% to \$182 million over the same period. Since the Pool provides worker's compensation insurance for risks unable to obtain coverage in the voluntary market, high loss ratios over the past six years are not a concern. The members of the Bureau assume all expenses incurred by the Pool.

## **VIII. SUMMARY OF RECOMMENDATIONS & SUGGESTIONS**

### **Prior Examination Recommendations**

- Page 8            1. It is again recommended that the Bureau determine the staff and amount of equipment that is necessary to perform inspections of risk for proper classifications of employees and to audit employer payrolls, in order to comply with s. 626.09, Wis. Stat.

### **Market Conduct Examination Recommendations**

#### **Organization and Management**

- Page 15            2. It is recommended that the Bureau develop and implement internal controls to ensure that all Bureau members are licensed and have the authority to write worker's compensation insurance before accepting policies from the members. It is further recommended that the Bureau refer instances of insurers writing worker's compensation insurance in Wisconsin without the proper authority to the Commissioner.
- Page 16            3. It is recommended that the Bureau confirm that all members have returned a signed copy of the most recent bylaws to ensure that all members accept the obligations of membership in the Bureau as defined by the current version of the bylaws. It is further recommended that the Bureau develop and utilize a tracking system so the Bureau can easily identify when a member has not returned a signed copy of the bylaws when required and follow up with the member as needed.
- Page 17            4. It is recommended that the Bureau reconcile the list of members that have provided an e-mail address and notified the Bureau that it has Internet access with its membership list. It is further recommended that the Bureau resume hard copy distribution of Circular Letters to those members who have not provided an e-mail address and/or do not have Internet access, in order to ensure compliance with paragraph 4 of Article X and Article XVI of the bylaws.
- Page 17            5. It is recommended that the Bureau send a notice of all meetings with an agenda of matters to be considered to the members and Committee members at least 10 days in advance of the meetings, to ensure compliance with the Bureau's bylaws.
- Page 18            6. To ensure compliance with paragraph 5 of Article VI, Organization of the bylaws, it is recommended that the election process for the chairperson of the Rating Committee be amended to allow an employer representative to be proportionately included in the alternating procedures for the election of a chairperson.
- Page 18            7. It is recommended that the composition of stock and mutual members of the Human Resource, Operations and Finance sub-committees of the Bureau be amended to ensure compliance with s. 626.31 (1) (b), Wis. Stat.

- Page 19      8. It is recommended that Governing Committee members abstain from voting on premium charge off's when the committee member and/or an affiliated insurer is the servicing carrier requesting the premium charge off. It is further recommended that the abstention be duly noted in the meeting minutes.

### **Electronic Commerce**

- Page 20      9. It is recommended that the agreement between the Bureau and the vendor selected to develop the Bureau's website be amended to include a confidentiality clause that requires the vendor to take the appropriate steps to protect confidential information contained in the Bureau's systems.

### **Customer Service and Complaints**

- Page 21      10. It is recommended that the Bureau formally define what constitutes a complaint, develop and implement written procedures related to the handling of complaints and maintain a log of complaints received.

- Page 21      11. It is recommended that appeal procedure for the Rating Committee and the Pool Committee be amended accordingly to reflect the actual procedure of filing Committee decisions with the Commissioner for information only.

- Page 21      12. It is recommended that a specific procedure for the review of matters under s. 626.31 (3) (a), Wis. Stat., that would be under the jurisdiction of the Governing Committee be developed and implemented, in order to ensure compliance with s. 626.31 (3) (b) 1, Wis. Stat.

### **Company Operations**

- Page 24      13. It is recommended that the Bureau develop a procedure to identify members that generate an above average number of notices in relation to the number of policies filed with the Bureau and to be more aggressive in trying to resolve problems with those members that file a significant number of policies each year and have a greater than average number of notices in relation to the number of policies written. It is further recommended that the Bureau report to the Commissioner those members that do not work in good faith with the Bureau to resolve the issues that result in a higher than average number of notices.

- Page 24      14. When notifying a member insurer of replacement coverage, it is recommended that the Bureau use an advisory, not mandatory, Notice to Carrier when an employer voluntarily replaces coverage, the replacement coverage is effective on the employers normal anniversary date and there is no duplicate coverage.

- Page 25      15. To ensure that the information in the Bureau computer system accurately reflects the actual agent information shown on the policy, it is recommended that during data entry the prior agent information be amended, as needed, to reflect the actual agent of record as listed on the policies regardless of whether the incoming policy is a new or renewal policy.



- Page 26 16. It is recommended that the Bureau revise the schedule adopted in accordance with s. 626.35 (2), Wis. Stat., to comply with s. 626.31 (1) (c), Wis. Stat. and that fines be issued to members in accordance with the revised schedule.
- Page 28 17. To ensure compliance with s. 626.25 (1), Wis. Stat., it is recommended that the Bureau verify that the correct rates are used on all policies and that the Bureau require an insurer to endorse the policy accordingly if the correct rate is not used. It is further recommended that the Bureau record and retain all endorsements, including but not limited to rate change endorsements, which contain pertinent information related to a policy, the premium being charged and the coverage provided to a Wisconsin employer.
- Page 28 18. It is recommended that the Bureau verify that the expense constant on a multi state policy showing Wisconsin in Item 3A is at least equal to the applicable expense constant for Wisconsin, to ensure compliance with s. 626.25 (1), Wis. Stat. It is further recommended that the Bureau require an insurer to endorse a policy accordingly, if the expense constant on a multi-state policy is not at least equal to the applicable Wisconsin expense constant.
- Page 28 19. It is recommended that the Bureau verify that the correct intrastate experience modification rating factor is used on all policies to ensure compliance with s. 626.25 (1), Wis. Stat. It is further recommended that the Bureau require an insurer to endorse the policy accordingly if the correct intrastate experience modification rating factor is not used on a policy.
- Page 29 20. It is recommended that the notice to the insured and to the insurer regarding a revised Wisconsin Contractors Premium Adjustment Program credit be revised to clearly state that the credit has been revised.
- Page 30 21. It is recommended that the Bureau develop a procedure to identify members with data reporting problems and to be more aggressive in trying to resolve problems with those members that file a significant number of Unit Statistical Reports (USRs) each year and have a greater than average notice to filing ratio for delinquent or rejected USRs. It is further recommended that the Bureau report to the Commissioner those members that do not work in good faith with the Bureau to resolve the issues that result in a higher than average number of notices.
- Page 31 22. It is recommended that the Test Audit Program be re-activated to ensure compliance with Article II of the bylaws.
- Page 32 23. It is recommended that the letter notifying an insured employer that the employer's worker's compensation insurance policy will no longer be subject to experience rating be revised to include information about the availability of additional information on the Bureau's website regarding the eligibility requirements for experience rating.

## **Wisconsin Worker's Compensation Insurance Pool**

- Page 34      24. It is recommended that the Pool review Rule III.A.1 - Extension of Coverage - New Business, of the Rules Governing the Insuring of Risks as Required by Section 619.01 (c), Wis. Stat., of the Wisconsin exception pages to the Basic Manual, all procedures in the Pool Handbook related to the coverage effective date and the current binding practice of the Pool. It is further recommended that Pool take the appropriate steps to ensure that consistency exists among the rules, procedures and the actual binding practice of the Pool.
- Page 36      25. It is recommended that Rule I.A.1 of the Rules Governing the Insuring of Risks as Required by Section 619.01 (c), Wis. Stat., in the Basic Manual be updated to reflect the revision to the rule approved by the Commissioner on September 29, 1999.
- Page 36      26. To ensure compliance with s. 628.03 (1), Wis. Stat., it is recommended that at the time an application for insurance is submitted to the Pool, the Pool verify that the producer submitting the application does in fact hold a valid Wisconsin intermediary license.
- Page 36      27. It is recommended that when a signed servicing carrier agreement is received, that the Pool review the document for completeness and take the appropriate action to correct any deficiencies.
- Page 37      28. It is recommended that the Pool direct the servicing carriers to comply with s. Ins 6.85, Wis. Adm. Code.
- Page 37      29. To ensure that coverage is effectively terminated when the insured fails to timely pay the renewal premium, it is recommended that the Pool direct the servicing carriers to revise the notices of renewal to comply with s. Ins 21.01 (4) (a), Wis. Adm. Code.
- Page 38      30. To ensure compliance with ss. Ins 21.01 (8) and (10), Wis. Adm. Code, it is recommended that the Pool direct the servicing carrier to state with reasonable precision the facts on which the insurer's decision is based.
- Page 39      31. To ensure compliance with s. 628.34 (1), Wis. Stat., it is recommended that the Pool direct the servicing carriers to use the specific company name issuing a policy on behalf of the Pool on offers to renew coverage, premium due notices, notices of termination, notices of reinstatement and other such communications to the policyholder regarding the status of the coverage.
- Page 39      32. It is recommended that the Pool direct the servicing carriers to review the general information regarding worker's compensation insurance currently being provided to their policyholders and revise it accordingly to ensure compliance with s. 628.34 (1), Wis. Stat. It is further recommended that the Pool direct all servicing carriers to review and revise general information provided to policyholders about worker's compensation insurance on a regular basis to ensure that incorrect and outdated information is not being provided to policyholders.

- Page 39      33. To ensure compliance with s. 628.34 (1), Wis. Stat., it is recommended that the Pool direct the servicing carrier to stop notifying policyholders of the potential for a less than pro rata return of premium if the policyholder cancels the policy before its normal expiration date.

## **Financial Examination Recommendations and Suggestions - Workers Compensation Rating Bureau**

### **Management and Control**

- Page 45      34. It is suggested that the Bureau request and review Service Auditor's Reports (Type II) for any party administering work on the Bureau's behalf under an agreement.

### **Accounts and Records**

- Page 46      35. It is recommended that the Bureau consistently follow its current policy pertaining to dual signatures on check disbursements.
- Page 46      36. It is suggested that the Bureau formally document its current check signing process outlining the hierarchy of whose signatures are required, taking in consideration that direct subordinates, in the same department, should not be the second signer.
- Page 46      37. It is suggested that the Bureau formally document its existing guidelines pertaining to the approval and reimbursement of business expenses.
- Page 46      38. It is suggested that the Bureau formally document its existing guidelines pertaining to Bureau credit card use and reimbursement.
- Page 47      39. It is suggested that the Bureau develop and implement a formal written procedure that will better address the collection of the missing information.

### **Payroll**

- Page 48      40. It is suggested that the Bureau revise its existing procedures to include the written approval of the non-exempt employee's weekly time reporting sheets by their direct supervisor and/or Bureau management.
- Page 48      41. It is suggested that the Bureau revise its existing procedures to include the written approval of the exempt employee's monthly time sheets by their direct supervisor and/or Bureau management.

### **Disaster Recovery**

- Page 48      42. It is recommended that the Bureau develop a comprehensive disaster recovery plan that would clearly identify what would be done in cases where it is not able to access its computers or the office building is destroyed.

## **Financial Examination Recommendations and Suggestions - Wisconsin Workers Compensation Insurance Pool**

### **Management and Control**

- Page 56      43. It is suggested that the Pool request and review Service Auditor's Reports (Type II) for any party administering work on behalf of the Pool under an agreement.

### **Accounts and Records**

- Page 56      44. It is suggested that the Pool develop and implement improvements to its charge off procedures with respect to timely settlement of charge off balances.
- Page 56      45. It is recommended that the Pool review its current process as it relates to cash handling procedures as well as proper segregation of duties and take appropriate action.
- Page 56      46. It is suggested that the Pool establish and implement formal written procedures requiring dual management approval of payables at the Vice President level or higher.
- Page 57      47. It is suggested that the Pool a) update the bank authority resolution to coincide with the governing board resolution, b) document, approve, and implement check and bank transfer limits, and c) require multiple approvals for checks and transfers over the limits set in b).

### **Invested Assets**

- Page 57      48. It is recommended that the Pool amend its securities custodial agreement to comply with the following provisions, found in the NAIC Financial Condition Examiners Handbook:
- a) That the bank or trust company as custodian is obligated to indemnify the insurance company for any loss of securities of the insurance co. in the bank or trust company's custody occasioned by the negligence or dishonesty of the bank or trust company's officers or employees, or burglary, robbery, holdup, theft, or mysterious disappearance, including loss by damage or destruction;
  - b) That in the event that there is a loss of the securities for which the bank or trust company is obligated to indemnify the insurance company, the securities shall be promptly replaced or the value of the securities and the value of any of rights or privileges resulting from said loss of securities shall be promptly replaced;
- Page 57      49. It is recommended that the Pool retain originals of all agreements with its investment advisors.

## **IX. ACKNOWLEDGEMENT**

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the Bureau is acknowledged.

In addition to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

<b>Name</b>	<b>Title</b>
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